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ROD KUENEMAN
RICK LINDEN
RICK KOSMICK
UNIVERSITY OF MANITOBA

A STUDY OF MANITOBA'S NORTHERN AND RURAL JUVENILE COURTS

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This working paper is available in French. Ce document de travail est disponible en français.

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OUTLINE AND OVERVIEW OF REPORT

This research on the rural and northern juvenile courts in Manitoba was designed as a preliminary overview. We sought baseline information about the circuit in several different areas rather than focussing exclusively in any one area. The intent was to help draw attention to some of the issues surrounding circuit court activity which may warrant further research and policy development.

The report includes the findings of four different but interrelated projects. This outline and overview of the report is intended to help the reader understand generally the work that has been undertaken, the data source used, and also the limitations that underlie our findings.

Chapter I outlines the circuit court process. This chapter describes logistical problems which are encountered in such an undertaking. These constraints have a significant impact on the operation of the circuit court and the kind of justice provided by the circuit court system. No other description of this system was available and several interviews with key actors in the system across the province were necessary in order to get an overview of the system. Perceptions of key actors concerning their working conditions and their evaluations of the circuit court system are also included in this section. In addition, this chapter also describes the type of court facilities as seen by an observer attending court sessions in each of 22 courts sites included in this study. These sites were selected because they had a high volume of cases and as a set were representative of the geographic and racial composition of rural and northern communities. (For more information concerning methodology see Appendix A).

The court sites which were selected are the following:

Northern Native	Northern Non-Native
God's Lake Narrows	Thompson
Norway House	The Pas
Shamattawa	Flin Flon
Pukatawagan	Grand Rapids
Cross Lake	Lynn Lake/Leaf Rapids
Southern Native	**Southern Non-Native**
Roseau River	Morden
Pine Falls	Beausejour
Fisher Branch/Koostatak	Neepawa/Minnedosa
Rossburn	Swan River
Bloodvein	

In Chapter II we present a typology which has been designed to help classify the types of communities found in the rural and northern sections of Manitoba. The data used in this section comes from secondary sources such as government reports and the 1981 Census. While our data are not totally complete, we wanted to develop a picture of the community context within which the circuit court was operating. We began by developing a profile on all of the largest communities which were included in this study. These profiles are included in Appendix B. We used these profiles to develop a typology which may be helpful in future research efforts. This typology was developed after our sites had been selected, and several sites do not fall clearly into one the types of communities as described by the typology. We did, however, use the typology in later chapters to help guide our analysis of the data.

Chapter III reports the results of a file study of juvenile cases processed in 1981 at the 22 sites included in the study. We were interested in determining what were the most important factors influencing court decision-making and in looking at the time taken to dispose of cases. This

information had been previously gathered for the Winnipeg juvenile court in 1979 and 1981.

Chapter IV reports the results of the court observation phase of our study. During our visit to each site to conduct interviews, the court docket for juveniles was observed to describe the general nature of such circuit court sittings. From the outset we were aware that this limited amount of court observation would be inadequate for any detailed analysis of the circuit court process, but it was decided that the work would allow us to make some statements about formality of proceedings, who attended such hearings, the levels of participation by various parties, etc. Financial limitations precluded a more detailed study but at least we were able to move into this important area of investigation.

Chapter V reports the results of the interviews which were conducted with key actors in the juvenile circuit court parties and various community members who were closely related to the court process and/or juveniles in their communities. These interviews were designed to elicit information concerning the operation of the circuit court, the perceived problems with the court, and to identify any suggestions for improvement of the juvenile justice system in these smaller communities. It was recognized at the outset that this study could only undertake this research thrust in a preliminary and developmental way. The more detailed, ethnographic type of study was simply too premature and too costly to be undertaken at this time. Thus the findings from these data are general and tentative in nature. The limited time available to locate and interview respondents, the fact that in many instances there was only one site visit, and our inability to establish the type of rapport which inspires confidence in

findings all suggest that the reader should view these findings as preliminary. However, we have been able to identify the major issues and positions concerning the quality and efficacy of the juvenile court circuit. These are discussed in the chapter, with more detailed analysis of interviews being provided in Appendix C.

Chapters VI, VII and VIII pull together the various components of this study and draw out the significant findings, discuss the policy implications which arise from the data and make suggestions for further research in this area of investigation.

CHAPTER 1

STRUCTURE OF RURAL AND NORTHERN JUVENILE JUSTICE

1.1 Introduction

This report is the result of a three year study of the Juvenile Court system in northern and rural Manitoba communities. Nearly 200 interviews were conducted with key actors and community officials involved in the juvenile justice system. This chapter will describe: a) the structural organization of the juvenile court system, b) the problems key actors face as they work within this system, and c) the courtroom facilities used by the circuit court. While the data apply to Manitoba, many of the issues that arise are not unique to this province. Most communities in the northern tier of Canada are served by circuit courts.[1] The problems of circuit court services in other jurisdictions are very similar to those in the hinterland of Manitoba although they are more severe in the Far North.[2]

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1. This perception was reinforced for our study when one of the principal researchers attended the Northern Conference in Yellowknife, N.W.T. during March 1984. The topic of the conference was Circuit Courts in the North and the associated problems of such a delivery system.

2. Throughout this report we will use the term hinterland to refer to the types of communities which have been included in this research. A major objective of this study was to examine the court process in areas of the province which were not large urban centres. To that end, sites such as Winnipeg, Steinbach, Brandon and Selkirk were excluded. We wanted to study court process in the region remote from cities and larger towns. The communities under study vary in terms of the degree of remoteness but all are clearly non-urban.

While recognizing that there are differences among jurisdictions, we feel that there are enough common problems so that this report can provide some guidance concerning the major issues in the delivery of justice in northern areas.

1.2 Data Gathering Process

This research was undertaken with the cooperation of the Judiciary, Attorney General, Probation Services, and the R.C.M.P. Key actors and local community officials have been interested in and cooperated with our research efforts in the area of juvenile justice. Manitoba has a good legal file system for the circuit court so that we have reasonably complete information on legal variables and their effect on court decision making. Extra-legal data were available to a lesser degree.

The data gathering component of the study was undertaken in two phases. In order to become more familiar with the structure of the delivery process, and in order to identify the issues associated with northern justice, a feasibility study was undertaken from May to September in 1982 which consisted of 40 interviews with key actors throughout the province. Specifically we discussed the juvenile and adult court systems with Judges, Crown attorneys, Legal Aid lawyers, Probation officers, R.C.M.P. officers and Tribal Council officials for the reserves. During the main phase of the study (March 1983-June 1984) an additional series of 157 interviews were conducted with key actor and community members involved in the juvenile court process. Our description of the delivery process stems from these interview data.

1.3 The Delivery of Service

There is no easy way to describe the system of hinterland justice as it is essentially an ad hoc patchwork which has evolved over time. Various key actors arrive from different communities on a court date in any given site. The jurisdictional boundaries of each of these key actor groups do not necessarily correspond. As there are some important distinctions to be made among groups, we will describe each key actor group separately. However, each group is faced with a high demand situation due to the large geographic areas and the isolation of many communities. As a result, there are many important similarities that are determined by the nature of a system which serves hinterland areas from larger metropolitan centers.

1.3.1 Probation Services

Probation Services divides the province into seven districts and has established a district office in a large community in each district. In addition, some satellite offices have been established in other larger communities. On the whole, however, most Manitoba communities are too small and remote to have daily access to a Probation Officer (P.O.). Thus Probation Services is faced with the task of establishing various methods of conducting its work from outside the communities that it serves. Probation work by its very nature involves a level of demand which is quite different from that of the other court key actor groups (Judiciary, Crown and Legal Aid). While all key actor groups travel the circuit and learn about the juvenile offenders and the communities that they serve, this requirement is more demanding for Probation Services. Since P.O.'s are responsible for completing Pre-disposition Reports (PDR), and for arranging and supervising many dispositions, they must be more familiar with and spend more time in the communities within their jurisdiction than the other

key actors. The more remote and inaccessible the community, the greater the difficulty P.O.'s have in performing their functions from a district office outside the community. In contrast, other court key actors need only to be in the community on the day of the court sitting.

In order to compensate for the physical absence of P.O.'s from many of the smaller communities, some Probation districts have Probation Workers (P.W.). These individuals may be paid by Probation Services, by the Attorney General as part of the court communicator program, or they may be working part-time for another government program. P.W.'s lack some of the formal training that is required of probation officers but have been hired because they have the social skills and knowledge to work with people in the community. They are able to build community interest in the court process as well as arrange community-based dispositions. Most of the P.W.'s are recruited from their communities, and possess good community development skills as well as a basic knowledge of their communities. These characteristics are crucial in fostering the development of community court committees, arranging community-based dispositions such as community work orders, and effectively supervising court dispositions. It is important to note that the two Probation districts (Thompson and Eastman) which use P.W.'s and Volunteer Probation Officers (V.P.O.) to a considerable extent, use the team concept for case management. The P.W.'s work with P.O.'s regularly on cases, and all decisions concerning a case are made on a group consensus model involving all staff in the Probation office. Thus whatever a P.W. may lack in formal training is compensated for by the active involvement of the district P.O.'s.

The presence of the P.W. in the community is a vital element for the Probation system. Without the P.W., it is almost impossible to develop and

to maintain community interest and to foster a long term community court committee. The range of dispositions available to the court is radically reduced since it is difficult to implement dispositions in the community without having a P.W. present. This is particularly true of communities which have court dates every two or three months. Without a P.W. or a V.P.O., Probation Services would not be present in the community except in a crisis situation or on a regular court date. The P.W. approach is perhaps the most feasible way of reducing problems caused by remoteness of communities. It is also an effective way for Probation Services to have some local manpower to deal with some of their administrative workload. The P.W. is used not only for case supervision, but also as a source of information for Pre-disposition reports.

However, many probation officers still experience a great deal of strain in their work due to the large jurisdictions and the need to spend up to 25% of their time travelling to communities. In order to cope with this situation, they have adopted several practices. They only become involved in cases where there are Criminal Code violations. While P.O.'s in some of the southern districts are also involved in Highway Traffic Act and Liquor Control Act matters, the more northern districts simply do not have the resources to deal with these offences. The most northerly districts also use non-judicial diversion for approximately 50% of their cases in an effort to meet the demand for more attention to the more serious offences. The hinterland districts also prepared fewer written PDR's than their Winnipeg counterparts who provided written PDR for all juveniles going to disposition up to 1982. Oral reports in court are a standard procedure unless a written PDR is requested by the court. However, even these are not always possible in some of the more northern districts where

probation personnel often do not attend court and instead try to undertake more case supervision.

These problems are less severe in the southern districts. The size of the districts are smaller, the communities are accessible by road, and court sittings are more frequent since the communities are larger and dockets accumulate more quickly. Less time is devoted to travel, more supervision is possible, written PDR's are more frequent, professional training is required of staff, and the use of community court committees is an optional alternative to the court process instead of an absolute necessity. There is also a difference in the relative emphasis placed on juvenile and adult workloads. In the North, where resources are limited, the emphasis is primarily on juvenile cases (between 70-90% of person-hours are devoted to juvenile work) whereas in the southern districts the work is more evenly split between juvenile and adult cases. In northern communities adults tend to be put on probation less and dispositions such as fines are more frequently used.

At a general level the differences between the delivery of Probation Services in southern rural Manitoba and Winnipeg are smaller than the differences between the level of service provided to southern Manitobans compared to northern Manitobans. The reason for the poorer level of service in the North is primarily financial as the costs of mounting a more complete and frequent court circuit would be very high. Some of the northern Probation districts now spend approximately 25% of their total budget on travel. Current budget allocations do not allow for the hiring of enough part-time P.W.'s much less for the hiring of fully-trained P.O.'s. The small population of the North makes it difficult to justify a higher level of funding.

We have described the structure of the delivery of Probation Services to the hinterland and have outlined some of the problems with this structure. The problems will be considered later in this report when the general issues of northern and rural justice are discussed.

1.3.2 Judiciary

Court dates are set when a sufficient number of cases have accumulated. Some courts sit regularly on a monthly, bi-monthly or quarterly basis. Court sittings in other communities are somewhat less regular and are scheduled every two or three months. Juvenile matters which occur in southern communities are usually heard by Family Division judges who come from Winnipeg or Brandon. In addition to the normally scheduled dockets, Family Division judges are scheduled for trials, transfer hearings and other special court sittings as required. Many of the smaller, northern, remote communities are serviced by Criminal Division judges who are on the adult circuit. Since it would be very expensive to mount two circuits, one for juvenile and one for adult cases, the Criminal Division judges on circuit hear all matters. They also hear any urgent matters in communities regularly serviced by the Family Division whenever they are hearing adult matters in these communities. The same judge may sit regularly in some communities while other communities may be serviced by different judges staffed on an ad hoc basis.

The hinterland circuit court does not place additional pressure directly on the Judiciary (beyond the travel required), as the experience of sitting and hearing matters in small, remote communities is similar to that in urban centres. The amount and quality of information may vary, and the need for set-downs is more frequent in order to allow the juvenile to

consult with Legal Aid or Probation Services. However, the Judiciary does not experience the same problems of case compression as do other legal actors such as the Crown and Legal Aid who must gather particulars in order to properly present their cases. Most respondents in our feasibility interviews, including judges, thought that judges had sufficient time to deal with matters. The primary concern of individuals, who travelled court circuits regularly, was the frequent change in judges and their lack of familiarity with many of the local communities and Native culture. These issues will also be addressed later in this report.

1.3.3 Crown

Crown attorneys service juvenile and adult courts from five offices across the province. These offices send a Crown prosecutor out on circuit as part of the court party. The Crown's office sets the court schedules and coordinates the logistical arrangements necessary to bring the various key actor groups together for court dates. The Winnipeg circuit Crown attorneys service a large number of rural communities and are almost continuously on the road, spending approximately one day in the Winnipeg office very two weeks. The Thompson office also has a large jurisdiction and the two Crown prosecutors spend considerable time on the road as well. While there are some articling students in the Crown offices such as Brandon, the majority of the Crown attorneys are lawyers who have been in the office for some time or in the case of the Winnipeg based circuit, are rotated into the circuit for a period of two years. The only exception to public Crown is in southwestern Manitoba, where arrangements have been made for a private lawyer to serve as Crown for some of the smaller communities.

The Crown attorneys focus almost exclusively on Criminal Code matters. On other charges, local magistrates have limited jurisdiction and deal with most Highway Traffic Act and Liquor Control Act offences so long as there is an admission of guilt. These magistrates are usually prominent community members appointed by the Attorney General's department. The Crown is present for almost every docket dealing with Criminal Code matters scheduled in the rural and northern sites. In two of our research sites, Pine Falls and Flin Flon, a Crown attorney was present for the adult docket but not for the juvenile docket.

It is useful to describe the type of interaction that occurs in processing a case in order to better understand the role of the Crown attorneys. The central element in case processing for circuit courts is the file of an accused individual. The file containing the current charges for the case travels the circuit. Since the Crown prosecutors spend so much time on the road, the best time to discuss a case is often on the day it is to appear in court. Since Legal Aid lawyers are frequently attached to the court party travelling on the circuit, the only time that a client may get to talk to his or her lawyer is immediately prior to court. Often it is after this lawyer-client meeting that the defense and prosecutor discuss the particulars of the case. Given the structure of the circuit court, it is not surprising that much of the contact concerning a case occurs prior to court or during court recesses. While the Legal Aid and Crown often fly into some communities together, discussion of cases is impossible due to the noise created by the small bush planes. There is, of course, a greater opportunity to conduct pre-hearing case preparation between prosecutor and defense counsel in the larger communities where the Crown and Legal Aid offices are located. In contrast, the movement of a

case in remote communities is handled in the court and the office work is conducted directly from the file.

When the charge is more serious, when a denial is entered, when custody, transfer or committal are contemplated, the average number of adjournments escalates from an average of two or three to eight or more. Accordingly, the length of time that the case takes to reach disposition increases substantially, especially when court is scheduled on a bi-monthly or quarterly basis.

The smooth processing of cases in rural and northern communities is dependent on a good deal of cooperation on the part of the key actors, as there is no stationary file system, or set of buildings, or key actors upon which a more structured order and flow could be based.

1.3.4 Legal Aid

Legal Aid offices that service the hinterland court sites are located in larger communities across the province. This research project has focussed on Legal Aid and has not studied the role of private defense counsel since private lawyers rarely appear on the juvenile circuit court.

The extent to which the private bar is active in larger communities (some of which are included in this study) cannot be adequately measured or described with the information available for this study. It is clear that private counsel are frequently involved with cases as a result of a Legal Aid certificate having been issued for a client who needs representation in a serious matter and cannot afford to retain counsel. In addition, there are some communities where special arrangements have been made to have local private lawyers act in the capacity of Legal Aid.

Legal Aid lawyers act as duty counsel when they are in court. They will take applications for Legal Aid assistance, and will also defend clients in more remote areas. It should be noted that because of budgetary restrictions duty counsel was not always present for juvenile matters where the juvenile docket is held on a separate day from adult cases. In some regions, Legal Aid representatives have attempted to go into the community a day before court in order to hold Legal Aid clinics but this level of service is restricted to communities that can be reached by car and is also dependent on the staffing levels for a given Legal Aid office.

Each of the Legal Aid offices has some staff lawyers as well as articling students who are frequently assigned to juvenile and family matters. Articling students are also those most likely to be assigned to the circuit court sittings. As a result, rather inexperienced staff may attend difficult court situations. This is an important issue and one which will be more fully addressed in a later chapter.

Due to budgetary restrictions, Legal Aid certificates were issued only to juveniles who face possible transfer to adult court, committal or other placement outside of the home. In such circumstances, a Legal Aid lawyer or a private counsel retained on a Legal Aid certificate would be assigned to the case. For the most part, Legal Aid staff would be concerned with entering pleas and speaking to dispositions. As duty counsel, they spend the bulk of their time explaining the process, discussing options open to the accused, discussing particulars, and advising accused of the defense they can offer in court. The ability to perform these functions is subject to structural pressures such as the size of docket and amount of time available prior to court.

Much of the interviewing of accused is done prior to court. However, if during the docket it becomes clear that there are discrepancies between particulars and accused accounts, if the accused wants to discuss pleas, or if a probation officer recommends an interview, cases are normally adjourned until the end of the docket. At this time, there is a recess to enable the Legal Aid representative to discuss the matters with the accused and the Crown attorney. Court is then reconvened and the matters proceed. This type of sequencing allows for a more orderly and less hurried discussion with both the accused and the Crown prosecutor.

In general, Legal Aid faces the same structural limitations as the Crown in terms of the ability to prepare for a case prior to court dates. This problem may be more severe in remote centres than in urban areas. Legal Aid laywers in remote sites require more time than they are currently allocated to protect the legal interests of clients; to discuss the particulars with the accused; to identify and interview witnesses for assessing the strength of the case against the accused; and to discuss pleas and possible outcomes which may help the accused make an informed decision on how to proceed. These lawyers must also prepare to speak to disposition which means having discussions with Probation, schools, and others. In addition, there is a need to discuss the details of cases with the Crown attorney. The increased demands on Legal Aid, and the fact that Legal Aid does not have ready access to a juvenile's prior record, (legal files are in Winnipeg or Brandon and Probation Services has the only directly accessible local file) means that they must spend more time at the site than the Crown. This is facilitated in part by the drop-in clinics, but these are only possible in sites accessible by road. When lawyers form part of the court party to fly-in sites, they have very limited time. The

amount of time available either means that cases must proceed prematurely or else the matter must be adjourned until the next hearing. The delays that arise through adjournment are sizable in these remote sites because courts are scheduled less frequently. Either way, the interests of the accused may suffer.

1.3.5 Police

While key actor groups previously discussed are organized to cover sizable geographic areas, the police are organized to deliver services to a much smaller territory. Much of the province is policed by the R.C.M.P. although a few communities do have their own local police force. Local police in non-Native communities handle law enforcement within the town limits with the R.C.M.P. being responsible for rural areas. Some reserves have band constables who work closely with the R.C.M.P. on all serious matters. In addition, the Dakota Ojibway Tribal Council (D.O.T.C.) have their own police force covering their reserves in southern Manitoba. R.C.M.P. rural detachments are structured according to size, travel requirements, and financial arrangements. Some R.C.M.P. detachments have municipal contracts with towns and their jurisdictional boundaries do not extend past the town limits.

The involvement of the R.C.M.P. in the court process is rather formalized which involves providing the court with the facts of a case as well as appearing at trials. They also perform an essential function in the North by ensuring that the accused juveniles and adults appear in court. Their greatest impact on the justice system occurs prior to the laying of charges. For example, there is variation in diversion practices among police detachments. Some detachments simply warn the juveniles, while

others may be more likely to discuss the matter with the juvenile and parents which allows the family to deal with the matter. However, it is beyond the scope of this study to deal with these variations.

This description of the practices of the key actor groups should provide the reader with a general understanding of the hinterland juvenile justice system in Manitoba. In the next section we will show the inter-organizational linkages between these groups by following an accused through the system.

1.4 Inter-Organizational Structure and Case Processing

The decision to charge involves the R.C.M.P., the Crown and Probation Services. Throughout the province the practice has been for the Crown to establish standards with Probation Services as to which juvenile cases can be diverted and handled non-judicially and which cases must be formally charged and brought to court. In clear cases (cases where the characteristics of the incident and the accused fall within the guidelines), Probation makes the decision and instructs the R.C.M.P. to lay charges. When there are problem cases, Probation or the R.C.M.P. refer the case to the attention of the Crown for instructions on how to proceed. Thus most of the routine decisions to charge in the case of juveniles are dealt with by the R.C.M.P. and Probation. This contrasts with adult cases, where the R.C.M.P. charge directly or, if they are in doubt as to how to charge in complicated cases, in consultation with the Crown. The R.C.M.P. also have regular discussions with the Crown concerning the strength of their cases, possible witnesses for the prosecution, and police appearances at trials.

The next stage involves the entering of pleas and bail. The principal actors at this stage are the Crown, Legal Aid, and to a more limited extent, the R.C.M.P. and Probation. In order for the Crown attorney and Legal Aid lawyer to decide on how to proceed, they must receive particulars. Both contact the R.C.M.P. and Probation for information concerning prior record, family situation, and particulars of the allegation. Based on this material, and with the aid of information provided by the accused, defense counsel can discuss pleas with the Crown and receive an indication of how the prosecutor intends to proceed. With this information, the Legal Aid representative can then advise the accused how to plead. Some of the same information is pertinent to the issue of whether to hold over in detention, especially in cases where judges are concerned about the juvenile's living arrangements.

During trials and transfer hearings, the contacts between the Crown, Legal Aid and Judiciary are formalized and require no description. However, the disposition process requires explanation; Legal Aid, Crown and Probation Services are all involved in this process. The Crown is interested in finding out whether a juvenile should be left in the community and discusses with Probation the juvenile's family, work and school situations to aid in speaking to disposition. Legal Aid also speaks to Probation about the same issues. For its part, Probation is frequently involved in discussions with local court committees and Band Councils in looking for suitable dispositions to recommend. Part of this discussion involves the routine maintenance and development of community-based resources for possible dispositions. Legal Aid, Crown and Probation also have regular contact with the Child Welfare system. Probation discusses with the Child Welfare agency the monitoring of a disposition. Where a

juvenile and his/her family is already involved with Child Welfare, that agency will supervise the court disposition. In these situations, the Crown and Legal Aid contact the Child Welfare agency in order to gather information concerning the living arrangements of the juvenile and to discuss possible dispositions.

The Judiciary has also played an important role in the development of community-based resources. The viability of community court committees ultimately depends on the Judiciary's willingness to use community based alternatives in sentencing and on its willingness to foster and to encourage such efforts. It is also important to note the very limited and formalized participation of the Judiciary in the court process. Most of the discussion of a case with the judge occurs on the record. Discussions with judges outside court do not concern specific cases and only deal with the more general issues such as programs of various agencies and the types of information required to make reports more helpful in determining dispositions.

At this level, the pattern of inter-organizational relations is not very much different than that in the larger metropolitan area. The significant differences that do exist between urban and rural courts in Manitoba will be discussed in subsequent chapters of this report. This brief overview of the system provides the reader with the necessary context for reading the rest of the report. Before proceeding, we briefly summarize the key actors' perceptions of this circuit system as a work site for them. These perceptions were obtained from the key actor interviews guide (see guide in Appendix F).

1.5 Key Actor Work Conditions

Circuit court work can be very demanding and stressful. Many of the court personnel are almost continually on the road. On the circuit, most of the work on caseloads can only occur on the day the court party comes together in the community. Probation officers must gather background information and undertake case supervision in communities with which they have very little regular contact. Some of the key actors come from different centres and regional offices and have been unable to confer earlier. Legal Aid lawyers lack opportunities to meet with the accused prior to court day in order to discuss particulars, pleas, and the court process. In many cases, both Crown prosecutors and Legal Aid representatives are made aware of the background circumstances of the accused by probation officers on the day of court. As a result, there is considerable compression of work on the court date as pertinent information must be gathered for all of the cases prior to court. Since court dates are infrequent in the more remote centres, there is pressure on the court party to proceed with the case and not to remand it to a later date as this would contribute to serious delays in arriving at a disposition. Many of the communities do not have rental facilities for overnight accommodations, so it is frequently impossible for the court party to come in a day earlier.

The consequence of these working conditions is low job satisfaction on the part of many court actors, high job turnover (though this is less of a problem during the current recession) and an unwillingness of more experienced staff to work on the circuit. This dissatisfaction has to do in part with the time and inconvenience of travelling, the hazards of flying in the North, and the difficulty in doing an effective job. As a result, many of the Crown attorneys and Legal Aid lawyers who travel the court circuits are articling students. Thus, rather inexperienced key

actors work under some of the most difficult conditions in the province. For the same reasons, it is difficult to find probation officers willing to work in the rural areas. The conditions may have a negative effect on key actors and the quality of work that they accomplish. However, the problem is structural and does not reflect the dedication that many of these people bring to their jobs.

1.5.1 Key Actor Perceptions of Working Conditions

Key actors interviewed in the South generally expressed the opinion that travel had no major impact on their work time though a few interviewees in Dauphin and Swan River did state that some of the outlying reserves created some pressure in the performance of their duties. The travel situation in the more remote centres in the North, however, did present a major burden. Probation officers frequently mentioned financial restrictions on travel which limited travelling to a community once a month usually on court day which in turn restricted the amount of available time to see clients. R.C.M.P. officers also complained about the lack of adequate time to conduct criminal investigations in remote communities which are serviced on a fly-in basis. Another factor frequently mentioned was weather conditions and associated problems of cancelled courts and large dockets. Legal Aid lawyers and Crown attorneys were frustrated by the delays necessitated by fly-in court where Legal Aid representatives did not have adequate time to speak with clients often resulting in a process of plea bargaining for purposes of expediency.

In the South, key actors generally did not feel their job performance suffered as they do not travel excessively or have unmanageable caseloads. However, in the North some interviewees did voice complaints. Probation

officers felt that more budget funds should be allocated to travel which would enable them to provide better supervision for their clients on probation. Legal Aid representatives suggested that extra funding would allow for more staff and the possibility of extending the concept of Legal Aid clinics into more remote communities. A few key actors also complained about the burden of paperwork which hindered their abilities to perform their regular functions on the court circuit.

Generally speaking, key actors didn't feel there were many difficulties with staff turnover in either the North or the South. A few interviewees perceived the recession in the economy as influencing career decisions. Some key actors mentioned problems of persuading people to come North because of their preference for large urban centres such as Winnipeg where a more convenient lifestyle is available. A small number of respondents remarked that incentives such as financial bonuses for living in the North or extra time off would help. However, the majority of key actors thought the person had to make a choice to reside in rural or northern areas and genuinely like the lifestyle.

Interviewees in the South observed no problem with case compression or high demand on court personnel. Key actors in the North did make a number of suggestions to alleviate some of these problems in certain remote areas. One suggestion was to have a court clerk travel with the court party to organize the vast amount of paperwork associated with court proceedings. Another suggestion was the scheduling of more court dates or the hiring of more staff though it was recognized that this would be costly and difficult to implement. Resource people such as such para-legals or probation workers living in the community were seen as ways of improving the flow of information to the court personnel.

In sum, members of the court party tended to perceive very few problems in the southern part of the province. However, in the North the remoteness of some communities made it difficult for some key actors to do their jobs. Staff shortages among court personnel, notably in the North, are a problem in terms of adequately serving the needs of accused individuals, but there was little hope for change during a period of fiscal restraint.

1.6 Court Facilities

A wide variety of court facilities are utilized in rural and northern Manitoba. The larger the centre, the better the facilities. Courts were held in the kitchen of a Legion Hall, Band Offices, large community halls, libraries, and court houses. Some of these facilities are very poor acoustically; they are not well heated or ventilated; and they do not have adequate space for waiting rooms or interview rooms. These surroundings made it difficult to meet some of the requirements of the Juvenile Delinquents Act (J.D.A.) especially the provision for in-camera proceedings. In winter clearing the courtroom would have meant forcing people to stand outside in -40 degree weather. In summer officials are reluctant to clear the courtroom because some of the accused may leave prior to their court appearance. Besides having limited courtroom facilities, many communities are so small and remote that they do not have rental accommodations for visitors. This makes it very difficult for a court party to stay overnight and contributes to the fly-in and fly-out policy observed on some court circuits.

There was some variation in the enforcement of the provisions of the J.D.A. The desire of the court party to comply with these provisions had

to be balanced against the need for flexibility in coping with local conditions as mentioned previously. In-camera proceedings were affected by the lack of waiting room facilities. Native culture also places more emphasis on openness of public gatherings and residents may have been suspicious about the fairness of closed juvenile hearings. As a result, judges were more willing to relax the in-camera requirement unless the case involved a particularly sensitive matter.

The dress attire for court officials is formal. The judges wore formal robes and other court personnel dressed either in suits or dresses. In remote communities, weather conditions might dictate the use of raincoats and rubber boots, but the formal dress code was generally observed. This attempt to create court formality was particularly admirable in some remote sites where the actual courtroom might be very uncomfortable. In addition to dress, the court attempted to create a formal court setting in temporary facilities by arranging tables and sitting areas whereby the judge presides at a central position with the Crown attorney on one side and Legal Aid lawyers and probation officers on the other side. As a result, even under the worst conditions, court was held with decorum.

Since the facilities for holding juvenile court vary greatly throughout the sites, we have divided communities into three categories (very good, average, and poor). These categories group together certain sites according to criteria as the buildings used for court, waiting rooms, interview rooms, and the utilization of in-camera court sessions. In addition, the availability of overnight accommodation is considered where fly-in situations or court held over a two day period becomes a factor in the judicial process.

1.6.1 Very Good Court Facilities

This category refers to communities which have facilities expressly built for court. The seven sites which fit into this classification are Thompson, The Pas, Beausejour, Swan River, Dauphin, Morden, and Minnedosa/ Neepawa. All of these locations are non-Native communities and the court facilities vary from recently built modern buildings to older structures erected in the early part of this century. The court proceedings for juveniles in all of these sites are held in-camera.

The Pas and Thompson are large communities where very modern court facilities were recently constructed. The courtrooms are very spacious with large seating areas and a permanently structured judge's bench with separate sections allocated for Crown attorneys and defense lawyers creating a very formal court atmosphere. Large waiting rooms exist in both court facilities and interview rooms are available where Legal Aid or Probation can discuss cases with clients. Overnight accommodations are not a factor since most court personnel are residents of these communities.

Beausejour and Swan River, like Thompson and The Pas, have very modern facilities. However, the courtrooms are employed in a different fashion. In Swan River juvenile proceedings are held in the main courtroom if they there is a conflict with adult hearings scheduled for the same time period. In a case of conflict, the juvenile court is moved into a smaller board room in the same building. In Beausejour, a small room adjoining the main courtroom is used for juvenile hearings because adult court is held the same day. Both Swan River and Beausejour have adequate waiting rooms and additional rooms are available for interviews. The members of court parties travel into these two communities for the court hearings and return

to their home communities the same day. It should be noted that Swan River serviced a large Native population from the communities Shoal River, Indian Birch, and Pelican Rapids which are a considerable distance from Swan River. This distance and the lack of transportation facilities cause delays to the court process; it is not unusual for the court to wait three to four hours for individuals to show up for a scheduled appearance.

Older courthouses exist in Dauphin, Morden, and Minnedosa. These buildings are well-maintained and the courtrooms were very formal in structure. Dauphin and Morden use their main courtrooms for juvenile court but Minnedosa employed a smaller library room for in-camera hearings. The waiting room areas in Dauphin and Morden are in the main lobby which causes some congestion. Minnedosa had juveniles and parents standing in the hallway awaiting the court appearance. Some rooms in each building are used for interviews if they are required. Local accommodations are not important in Dauphin because the court party resides locally while Morden and Minnedosa have court parties coming from Winnipeg and Brandon respectively for the court day only.

1.6.2 Average Court Facilities

This category contains eleven sites which are Leaf Rapids, Flin Flon, Neepawa, Pine Falls, Rossburn, Fisher Branch, Grand Rapids, Cross Lake, Norway House, Waboden, and Bloodvein. These communities have facilities which are temporarily set up for court to create the semblance of a formal courtroom.

Leaf Rapids court is conducted in the Town Council chambers. This facility is small for a court setting but very comfortable. There is no waiting room but a few small rooms in the council chambers can be used for

interviews. The juvenile docket is held in-camera at the discretion of the judge. The court party usually flies in for court and leaves the same day although good accommodations do exist at a local hotel.

Flin Flon court is held in the basement of a library and the waiting room consists of a stairway leading to the main floor. Since the court is held in-camera, the stairway can become overcrowded with juveniles and parents making entrance and exits difficult. The courtroom itself is very large and more than adequate for the proceedings. The court party travels from The Pas specifically for juvenile court.

The facility used in Neepawa was a temporary replacement while renovations were being made to the local courthouse. This temporary court was located in the recreation centre of a local church room very similar to a gymnasium. The court session was held in-camera which makes the acoustics tolerable in the gymnasium-like setting. The juvenile hearings are held on a separate day from adult matters and the court party comes from Brandon for juvenile cases only.

Pine Falls is a non-Native community with the large majority of court cases coming from Fort Alexander reserve which is in close proximity to the community. The Legion Hall is used for juvenile court which is held in-camera. A noise problem exists at the back of the large hall where juveniles and parents enter to go down into a waiting room in the basement. Also, the in-camera aspect is somewhat tarnished by people being able to observe and hear proceedings as they enter the hall. The lighting in the hall also is somewhat inadequate. Juvenile court is held on a different day than the adult docket and the court party returns to Winnipeg after the proceedings.

The Native population from the Waywaysecappo reserve makes up the bulk of the Rossburn docket. The Town Hall basement is used for juvenile proceedings which are held in-camera. Parents and juveniles are required to remain upstairs until their case is called from the docket. Interviews can be conducted in small rooms which are located along the walls on one side of the room. The court personnel come from three different locations: judge comes from Russell, Crown and Legal Aid from Brandon, and the probation officer from Minnedosa. The court party travel on to Russell for juvenile court in the afternoon.

Fisher Branch is a non-Native community serving the three reserves of Peguis, Fisher River (Koostatak), and Jackhead. All of the reserves are a considerable distance from Fisher Branch (at least 40 miles) which presents some hardships for people without access to transportation. The National Ukrainian Hall is a large structure where juvenile court is held in an open setting with adult court. Although the facility itself seemed adequate, a canteen remained open during court serving various refreshments causing the hall to be noisy at times. The lack of a waiting room did not present a problem since the hall was quite large affording space for client-lawyer discussions. A local hotel provided adequate accommodations for the court party which often remained overnight because court is normally held over a two day period for the juvenile and adult dockets as well as trials.

Court in Grand Rapids is held on the reserve in the Civic Centre. It is a large building which contains the Band Office and a hall where court is held. Juvenile matters are considered in-camera although juveniles mingle with adults in the waiting areas because adult court is held the same day. There are no interview rooms but the hall is large enough to

enable probation officers or Legal Aid lawyers to talk with clients by moving away from people to a more secluded part of the room. The court party flies into Grand Rapids from The Pas and the court is usually finished in one day although a local hotel could accommodate an overnight stay.

Cross Lake court is held in the Community Hall on the Metis settlement. The hall is spacious with a lobby and a few extra rooms where interviews can be conducted. The juvenile docket is held on the same day as adult court but the proceedings are in-camera. Accommodations were a problem because a local hotel was constantly booked due to construction projects in the area. The court party can either fly back to Thompson or continue on to Norway House where court is held the next day.

Norway House and Waboden have very similar facilities for court. Both use large rooms attached to recreation complexes with an arena. These rooms are used for social events with a kitchen/canteen room that are used for interviews. There were no waiting room areas so the court in Waboden was open but in Norway House the judge chose to hold juvenile court in-camera. A hotel is located in Norway House providing lodging for the court party if trials are scheduled for the next day. In Waboden the court party travels from Thompson about 60 miles away.

Bloodvein is a remote reserve serviced by a circuit court out of Lac du Bonnet. The facility used for court is a recently built school gymnasium. Juvenile and adult courts are held together in an open setting. The room was so noisy that the researcher had difficulty recording observations even though he was seated directly in front of the court party. There was no waiting room area or interview rooms available. Bloodvein has no

suitable accommodations to lodge the court party so they remain overnight in Berens River before continuing their circuit the next morning.

1.6.3 Poor Facilities

The six court facilities in this category are not very suitable. The courtrooms may have problems with lighting, ventilation, heat, cleanliness, cramped quarters or a number of other factors. These poor facilities exist in the Native communities of Roseau River, Sandy Bay, Pukatawagan, Shamattawa, and God's Lake Narrows. The Non-Native community is Lynn Lake.

Lynn Lake utilizes a Mason's Hall for court. It is a very small structure with poor lighting and ventilation. The waiting room area cannot hold a large number of people and juvenile hearings are open sessions at the discretion of the judge. The basement area is used by Legal Aid lawyers and probation officers to speak to clients in private. The court party usually flies in for court and out the same day. The local hotel can provide lodging but the accommodation is quite poor.

In Roseau River adult cases are heard in the Band Hall which is an adequate facility. However, juvenile matters are held in-camera inside the kitchen/canteen of the Band Hall. This room is small and not very clean. There is no space for juveniles or parents to sit down so they stand at the back of the room with the probation officer or probation worker. The larger hall serves as a waiting area and interview room. The court party travels from Winnipeg on a day trip basis.

The courtroom in Sandy Bay is cramped. A room in the Band Office is used but it only has space for a table surrounded by some chairs. The in-camera sessions required juveniles and parents to side step at the door in order to take up a position at the head of the table. The room tended

to get stuffy as the hearings continued. The Sandy Bay court is the last of three courts which are conducted on the same day in three different communities. The court party members go back to their home communities after completing the Sandy Bay docket.

Pukatawagan court is held in the Band Hall. This structure is not very large or well maintained. It was very dirty inside the building and the lighting was poor. Juvenile court was usually held in an open court along with adult matters. There are no waiting areas or interview rooms which resulted in a lack of privacy for Probation or Legal Aid to talk to clients. Overnight accommodations do not exist in Pukatawagan.

Shamattawa also uses their Band Hall for court. It is much larger than Pukatawagan but suffers from some of the same problems. It is not very clean and it also has poor ventilation. No waiting area is available nor is there any place for interviews. Probation and Legal Aid talk to people by moving off to a secluded corner of the hall. A large number of residents attend the open court and the noise level is very high. On occasion, the judge must shout out for quiet. A canteen is open during court proceedings and people were continually coming in to purchase food or refreshments. There are no overnight accommodations in Shamattawa.

God's Lake Narrows had the worst facility of all the research sites. The building was a former pool hall in the Metis settlement with very poor lighting and ventilation. The structure was small and no waiting area existed. Interviews had to be conducted either outside or in close proximity to other court party members or people in the courtroom. During the researcher's visit to the court, juvenile proceedings were held in-camera. However, this situation could not occur in winter where people would be required to wait outside the building in freezing temperatures. The court

party usually stays two days if trials are schedule with very good accommodations at a nearby fishing lodge.

1.6.4 General Comments

The court facilities present a major problem for the judicial process in six research sites. To comment on the actual effects upon court personnel is beyond the scope of the study. However, the court effectively is prevented from holding in-camera hearings for juveniles in some communities. It is difficult for a judge to force people to stay outside in the rain or snow waiting for their cases to be called before the court.

Remoteness of communities is a major factor in terms of the availability of good court facilities. Bloodvein, Shamattawa, Pukatawagan, and God's Lake Narrows were the most remote communities and three of these had very poor court facilities. Only God's Lake Narrows had adequate overnight accommodations. However, several members of the court party stated that even if accommodations were available in Shamattawa, they would refuse to stay because of the hostile and violent nature of the community.

Hopefully, this chapter has sensitized the reader to the difficult circumstances surrounding the delivery of services. We now turn to the community context within which the court process operates in order to further situate the administration of juvenile justice in hinterland communities.

CHAPTER 2

A TYPOLOGY OF HINTERLAND COMMUNITIES

The rural communities in our sample were selected for the study because in 1981 their juvenile court dockets were the largest in Manitoba. From the outset it became clear that there were basic differences in the structure, resource and need levels, and accessibility of the various communities which were serviced by the circuit court. A major goal of this study was to develop some type of a schema which would help organize the information that we were able to assemble with respect to these communities. The purpose of this chapter is to present a typology of the northern and rural communities selected for this study.

This analysis is a preliminary effort and we suggest that it be evaluated at least partially in terms of its heuristic value. Our tentativeness is not based on any uncertainty that these types of community differences really do exist; the contrast is very real. Nor are we hesitant in arguing for the need for further development and refinement of such a typology to assist in the improvement of justice delivery to the hinterland. We are convinced that such differences must be taken into account in the planning, implementation and evaluation of circuit court justice. The weakness of this typology stems from the limited data we have on each community and from the impact measurement techniques which were employed in our efforts to quantify such dimensions as resource development in each community. As will become clear later in the chapter, we have restricted our analysis by using broad, ordinal measures since these were most appropriate for the limited data which were available.

The information gathered for these communities came from Census Canada information and from available government documents and reports. A summary of some of the most significant information upon which our typology is based appears in Appendix B of this report.

2.1 Basic Dimensions of Communities and Families

In order to carry out the community analysis, we were guided by the notion of institutional completeness,[3] especially with respect to services and resources which are relevant to the socialization and attitudes of juveniles who may become involved in the judicial process. This line of thought led to the development of the dimension of level of resource development. Another important dimension for a community-based analysis stemmed from an appreciation that families have differing levels of need for outside support in the task of raising their children. We looked at the available data and decided that we could also begin to categorize communities on the basis of a family's potential need for resources. We found these two dimensions to be sufficient for the organization of the descriptive data we had gathered on each community. Before discussing the typology, a more detailed presentation of the method utilized in operationalizing these terms is in order.

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3. We are especially interested in the work by Linda Gerber which also directly deals with the development of typologies for the study of Canadian Indian Reserves. See: "The Development of Canadian Indian Communities: A Two-Dimensional Typology Reflecting Strategies of Adaptation to the Modern World" Canadian Review of Sociology and Anthropology, 16(4), 1979:404-424. And "Community Characteristics and Out-Migration from Canadian Indian Reserves: Path Analysis," Canadian Review of Sociology and Anthropology 21(2), 1984:145-165.

2.1.1 Level of Resource Development

For each community, information was gathered for the following sub-dimensions: transportation links (remoteness), development of utilities, economic development, social services development, counselling services development, and recreational services development. In considering which of these of services are the most appropriate for use in our study, it was decided that while transportation links and utilities development do have a definite impact on the general quality of life, that the other sub-dimensions would be most likely to have an impact on the juvenile population and the likelihood of their involvement in the justice system. We would argue, for example, that a low level of economic development in a community would deprive children of the opportunity to work, that it would deprive them of role models of working parents, and that the high levels of hopelessness and despair associated with the lack of employment opportunities linked with a high level of reliance on welfare would create a social climate dampening enthusiasm for life both for children and adults. Not surprisingly, inspection of the community characteristics shows that some of these characteristics do coincide. Poorly developed economies are linked with high levels of permanent welfare recipients and large proportions of the population over 15 years of age being idle. Discussions with key actors and local community members regularly connected unemployment, despair and alcohol/substance abuse.

In a similar vein, we would argue that the intermittent availability of some social services and the rudimentary development of other social services especially with respect to education, health, police and the courts would reduce the community's ability to provide the necessary support to families who are having difficulty with their children.

Counselling services are isolated because they are a primary resource to families in difficulty. Thus with respect to the juvenile justice system, the level of development of this key resource is very important for our understanding of involvement and reinvolvement. Finally, recreational services are important because they may help direct youthful energy into non-criminal activity.

Unfortunately, we had only rudimentary and often only formal information on the presence or absence of service development. For example, in one community there was an alcohol counselling program, but at the time we were in the community all of the counsellors themselves were in a dry-out program. Thus we have no way of assessing the quality of the services and programs. We developed a general classificatory scheme of rudimentary/underdeveloped/developed and arbitrarily assigned then a respective value of 1, 2, and 3. These data are ordinal in nature and thus the numerical values reflect, however crudely, the level of development in the community. The following table defines the parameters that were used to assign numerical values for each sub-dimension.

(INSERT TABLE 2.1 HERE)

These parameters were then applied to the descriptive information available for each community. In general, if we felt that a community's level of resource development was on the borderline in terms of our classification, we resolved the coding problem by coding the level as more developed. This would result in errors which would describe a community as more organized than might be the case upon scrutiny, but such an error is better than arguing that a community has fewer resources than it in fact

TABLE 2:1

Definition of Relationship between Community Characteristics and Assigned Values

ECONOMIC DEVELOPMENT		
3	Developed	- presence of a spectrum of retail and service outlets - presence of some professional occupations resident in community
2	Underdeveloped	- presence of retail, service, restaurant or hotel/motel service of some scale
1	Rudimentary	- presence of very limited retail, service, restaurant, motel/hotel services
SOCIAL SERVICES		
3	Developed	- presence of developed and community located services on most sub-dimensions
2	Underdeveloped	- presence of some community located services but others only available on intermittent, circuit basis
1	Rudimentary	- low level of development of community located services and/or reliance on intermittent delivery on circuit basis
COUNSELLING SERVICES		
3	Developed	- presence of community located resources for both alcohol and family matters
2	Underdeveloped	- presence of only one of these resources on permanent basis
1	Rudimentary	- no resources or resources are only available on circuit service from another community
RECREATIONAL SERVICES		
3	Developed	- availability of programs and facilities which includes special recreational use facilities such as bowling alleys, curling arenas, swimming pools
2	Underdeveloped	- includes programs and facilities but facilities are multiple use buildings (community centres) or capital non-intensive (outdoor rinks, playing fields)
1	Rudimentary	- low level of programming and/or facilities

might have. Using this method of assigning numerical values, the minimum score that any community could receive was 4 (if they were to have rudimentary level of development on each sub-dimension), and the maximum score they could receive was 12 (if they had developed resources in each sub-dimension). For the communities in our sample, the lowest score was 6 and the highest score 12.

2.1.2 Family's Potential Need for Resources

The other dimension of the typology was developed by looking at family demographic characteristics for each community as provided by the 1981 Census. We have also included school and work force participation data, as they convey a picture of how active the over 15 years of age group is in each community. Once again it must be emphasized the data relate to structural characteristics of families and cannot speak to the quality of relationships within them in terms of their cohesiveness, intimacy and values. However, they do show us two very different patterns of family and community structure. Some communities have a high proportion of single parent families, large families, and families with very low incomes. Low income, single parent, multiple child families are more likely to require assistance from the local community and social service agencies in the event that one or more of the children become difficult to control. If alcohol abuse is added to this picture (which is a major problem in many of these communities), then there is a greater need for community resources to buttress parental activity.

In preparing our typology, we selected the following key indicators: percentage of single parent families; the average number of children per family; and the average census family income. Other indicators could have been included because they all reflected the same pattern, but these three

were judged to bear most directly on the structural characteristics of the family and its potential need for resources.

Families differed greatly in terms of the range of variation for each measure. The lowest single parent family population was 5.3% of all families and the highest population was 33.3%. The lowest average number of children was 1.0 per family and the highest was 5.6 children per family. The lowest average census family income was $6,179 and the highest was $31,561. Once again we developed a method to assign numerical values to reflect the ordinal nature of the data. We divided the range for each measure into equal thirds and assigned each third the value of 1, 2, or 3. Thus a community with a low proportion of single parent families, a small average family size, would receive a need score of 3. A community with a high proportion of single parent families, large family sizes, and a low family income would receive a score of 9. This procedure resulted in the following distribution of communities.

(INSERT TABLE 2:2 HERE)

Based on this distribution of cases it was decided to divide this dimension into two categories: low need (all communities with scores of 3, 4) and high need (all communities with scores of 6,7,8,9). Once again the distribution of cases was bimodal and clearly described very different types of family demographic characteristics.

TABLE 2:2

Distribution of Communities in Terms of
Family's Potential Need for Resources

Score	Name of Community
3	Thompson
	The Pas Town
	Flin Flon
	Pine Falls
	Dauphin
4	Leaf Rapids
	Lynn Lake
	Grand Rapids Town
	Swan River
	Minnedosa
	Beausejour
	Morden
	Neepawa
	Rossburn
6	Fisher Branch
	Peguis Reserve
7	Grand Rapids Reserve
	Fort Alexander Reserve
	Norway House
	Cross Lake
	Roseau River Reserve
	Sandy Bay
	God's Lake Narrows
8	The Pas Reserve
	Waywayseecappo Reserve
	Blood Vein Reserve
	Shamattawa Reserve
9	Pukatawagan Reserve

When communities are compared along both dimensions simultaneously an important pattern emerges.

FIGURE 2:1

Typology of Hinterland Manitoba Communities

FAMILY'S POTENTIAL NEED FOR RESOURCES	LEVEL OF RESOURCE DEVELOPMENT: less developed	LEVEL OF RESOURCE DEVELOPMENT: more developed
high	Pukatawagan Shamattawa Bloodvein Waywayseecappo God's Lake Narrows Sandy Bay Cross Lake Norway House Fort Alexander Fisher Branch Peguis Grand Rapids Reserve	Roseau River The Pas Reserve
low		Rossburn Neepawa Morden Beausejour Minnedosa Swan River Pine Falls Dauphin Grand Rapids Town Flin Flon The Pas Town Lynn Lake Leaf Rapids Thompson

The almost perfect inverse relationship between potential need for and availability of resources demonstrates that we need to consider community context as an important facet of any study of hinterland communities. It is important to note that every low potential need community is a non-native community. It is also important to note why two high need

communities of the The Pas Reserve and Roseau River have more developed resources to respond to such needs. In the case of The Pas, Big Eddy Reserve is immediately adjacent to the town and the level of resources available to it is at least partially accounted for by that fact. In the case of Roseau River, the development of resources is a relatively recent phenomenon which is the result of the local efforts of the Band Council and The Dakota Ojibway Tribal Council. While our classification of resource development would define these two communities as more developed when one looks at the demographic characteristics, it becomes apparent that there is a need which outstrips available resources. For example, in Big Eddy Reserve, 52% of the population is on permanent welfare and 53% of the census family incomes are below $10,000 (and 20% are under %5000). In that same community 26% of the families are single parent and the average number of children is 2.8 per family. Thus while there is some economic development a large proportion of the population still cannot find work. The economic situation in Roseau River Reserve is even more extreme. It appears that Native communities have many families who, because of their composition and access to resources, need a developed resource pool and yet the resources are not readily available. Clearly this pattern requires some type of explanation. While the main purpose of this chapter is to develop a systematic basis for comparison of communities included in this study, we would like to outline a preliminary analysis that contributes toward the development of a typology of Canadian hinterland communities.

2.2 Toward a Typology of Communities

One of the first significant differences between Native and non-Native communities is that Native communities are often tied to locations as a

result of the signing of treaties. The fact that many Indian Reserves are located in remote sites or on unuseable land was an attempt to marginalize and ultimately assimilate the Native population.

The location of Reservations created less of a problem for the Native Peoples prior to the 1940's when the Canadian economy relied to a greater degree on the use of labourers in farming, fishing, timber and other resource extraction activity. In these times, Natives could find work close to their communities and, although their wages were low, they had a work identity and had a sense that they were being family providers. The introduction of machine technology into all aspects of the Canadian labour market resulted in the elimination of jobs near the Reservations and the problem of Native unemployment and underemployment. The traditional skills of hunting, trapping, fishing no longer were sufficient to make a living for most Natives. The need for large scale welfare assistance to the Reservation system is in large part tied to the inability of attracting some form of industry or other type of employment possibilities near these communities.

Non-Native communities are quite different. If a mine becomes exhausted, the community that was created at the site dies. Without an economic base, there is no way to keep such communities going and the population disperses to look for employment elsewhere. The provincial and federal governments have no need or willingness to artifically sustain such communities through the public purse because non-Native communities are constituted on an economic viability and if the collapse of a local economy occurs, the community is abandoned. While such communities will have some unemployment and under-employment, most of the population will be working, and welfare assistance will be a temporary measure and not a way of life.

Thus it becomes readily apparent that many of the features of the Native and non-Native communities are being systematically generated.

The second significant features which distinguishes the Native and non-Native communities is the level of resource development. The significant differences in resource development are primarily tied to the nature of the economic structures which sustain these two types of communities. Non-Native communities have transportation connections to the metropole because of the need to ship materials. Native communities have transportation links only if they are near larger communities and/or the roads, railway lines, etc. which connect them to the metropole.

Non-Native communities have more developed utilities either because the host company has developed the town, or because the local government is able to undertake public works because of property tax base which allows them to float bonds for such construction. Also federal and provincial assistance is often available for such utility development in order to increase the community's ability to attract manufacturing and/or retail and service business. Native communities have no way to generate such a tax base for utility development and hence must rely on the public purse not only for welfare but also for grants to build an infra-structure. This factor alone contributes in a major way to the staggering costs of maintaining the Reservation system in its current form. Huge government deficits and slow economic growth make it difficult to provide adequate resources to Native communities through such an economic structure. The remoteness and under-developed nature of many Reserves make it difficult for them to attract any private sector investment to create such an employment and tax base.

The provincial and federal government delivery of services in the hinterland is achieved through a circuit system. The location of these services is invariably in the non-Native communities because they are larger, have better developed infrastructures and because most government employees themselves are non-Native and/or have lived primarily in non-Native communities. The result is that Native communities do not have ready access to these government services. Thus the underdeveloped nature of Reserves is part of a cumulative set of factors which are not easily remedied without significant social and economic reorganization.

The final feature which separates these communities is the emotional tone of the communities. Non-Native communities are more buoyant. There is more hope. There are jobs. Most families have a sense of taking care of themselves. There is greater comfort in living above the poverty line. There is the self-respect and esteem that derives from a working identity. There is less despair. Large parts of the juvenile and adult populations are working or attending school full-time. Seeing working adults as role models contributes to youthful interest in education and the future. There is less need for escape through alcohol and gasoline sniffing. There is less strain on marriages when families have the financial base and the emotional resources which are available to people who find life satisfying and meaningful. Life in the Reservation system is a different experience.

We believe that the descriptive and demographic characteristics of the communities included in this study are readily explained with this type of analysis. Further and more detailed study and measurement of these communities and the quality of life experienced within them would certainly fill in the detail but it would not radically alter the basic thrust of this typological analysis. Any assessment of current criminal justice practice

in the hinterland needs to keep these basic differences in mind. Any evaluation or planned changes in this or any other delivery system will also need to address the different levels of need in these two types of communities and the structural conduciveness or non-conduciveness of current social arrangements. Certainly any research should to the extent possible include the community type as an important factor.

2.3 The Use of The Typology in This Research

The use of the typology in this study will be less than it ought to be. There are two basic reasons. Firstly, the typology was developed as part of the study and so it was not possible to include it in the overall design of the research. The second reason for the typology not being fully utilized is that we selected court sites based on the volume of cases occurring in 1981. We selected the high volume courts in order to obtain large enough numbers of cases for analysis. The problem of selecting cases on this basis is that most court sites have very large catchment areas which include both Native and non-Native communities. While some dockets include primarily Native or non-native juveniles, there was no way to establish the racial background of juveniles from the probation or legal files. As a result, we are unable to identify which juveniles come from which communities and thus could not use community or residence as a variable in the analysis. We were also unable to classify some court dockets as primarily Native or non-Native as sizeable communities of both types had juveniles appearing on the their dockets. There was 22 court sites included in the study. Twelve of those sites could be classified as almost exclusively Native or non-Native dockets while the remaining 10 courts dockets included juveniles from both types of communities. It was

decided that community type could form a part of the analysis by grouping the dockets in the following manner.

TABLE 2:3

Types of Court Dockets

Non-Native	Native	Both
Flin Flon	Norway House	Thompson
Morden	God's Lake Narrows	The Pas
Beausejour	Shamattawa	Grand Rapids
Minnedosa/Neepawa	Pukatawagan	Lynn Lake/Leaf Rapids
	Cross Lake	Wabowden
	Roseau River	Dauphin
	Sandy Bay	Swan River
	Bloodvein	Pinefalls
		Fisher Branch/Koostatak
		Rossburn

This grouping of sites will be used throughout the rest of the report where possible to determine if any significant differences exist on the basis of community type.

(TURN TO PAGE 51).

CHAPTER 3

FILE STUDY

A major component of this study of consists of a study of court and probation files in order to determine the factors which influence judicial decision making. Information was also gathered and analyzed in order to provide some knowledge of case processing. The remainder of this chapter outlines the findings of the file study.

3.1 Research Design

This study was designed to respond to the absence of information concerning the juvenile court process in rural and northern Manitoba. The file study component was created in order to provide information in the following areas: a) descriptions of the types of offences and types offenders in these smaller and remote communities, b) analysis of the factors which influence court decision-making and the types of dispositions handed down, and c) description of the court process in terms of time required for court processing, number of appearances, and other processing variables.

With the focus on decision-making, the most appropriate unit of analysis was the charge (or set of charges) which were disposed of at the same time. Since judges typically hand down dispositions based on all of the charges before them at the time, and since they often give one disposition for all charges, no other unit of analysis is possible if one wishes to assess what influences the Judiciary to arrive at a particular type of disposition.

A preliminary analysis was conducted of all hinterland court dockets for 1981 in order to determine the number of cases disposed of at each court site. This allowed us to locate those sites which would have enough case volume for statistical analysis. This preliminary list included sites such as Brandon, Steinbach and Selkirk which were eliminated because these communities are urban and/or satellite centres of Winnipeg and this study was to focus on smaller, more remote centres. A major criticism within the Manitoba justice community is that research basically ends at the perimeter highway surrounding Winnipeg. This study responded to the interest in learning more about the non-urban court process.

Other communities were eliminated because the number of juvenile cases were too small for comparative purposes. The remainder of sites were studied to include a sub-set which would be geographically representative. They were divided into northern and southern communities on the basis of location (and community perception for those few sites which are in the middle portion of the province, e.g. Dauphin Swan River). In addition, we divided each of these sub-sets into native and ~~white~~/mixed community sub-sets. From this preliminary analysis, 24 potential sites were selected and subjected to more detailed study during the feasibility phase of this research project. A more detailed file study was conducted for each site to determine the charge structure for each community, and interviews were held with key actor groups and native tribal councils to obtain their assessment of the suitability of the tentative sites. The following sites were selected and are classified according to the nature of the population dealt with by the juvenile courts.

NON-NATIVE	NATIVE	MIXED
Flin Flon	God's Lake Narrows	Thompson
Morden	Norway House	The Pas
Beausejour	Shamattawa	Grand Rapids
Neepawa/Minnedosa	Pukatawagan	Lynn Lake/Leaf Rapids
	Cross Lake	Wabowden
	Roseau River	Dauphin
	Sandy Bay	Swan River
	Bloodvein	Pine Falls
		Fisher Branch/Koostatak
		Rossburn

Lynn Lake and Leaf Rapids were combined into one site for statistical purposes since each was too small to be analyzed separately, each is a mining town for the same company, and they are situated within 60 miles of each other. Neepawa and Minnedosa are also very similar and within close proximity. Fisher Branch and Koostatak are also close locations and the sites were combined into one court site during 1981 by the court system.

In most sites we studied the total population of Criminal Code and Liquor Control Act charges disposed of during 1981. For some communities,[4] a random sample of these charges were drawn due to the fact that some larger sites had a much higher number of offences of certain types. All Highway Traffic Act charges were excluded because of budgetary constraints and because a number of the communities have no roads.

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[4]The following communities were sampled for Criminal Code offences: Thompson, The Pas, Dauphin, Swan River. The following communities were sampled for Liquor Control Act offences: Flin Flon, Beausejour, Neepawa/Minnedosa, Fisher Branch, Rossburn.

3.2 Description of Cases Dealt with by Northern and Rural Courts

This analysis is based on 884 cases which were referred to selected Manitoba and Rural Juvenile Courts in 1981. The number of cases analyzed at each site is shown in Table 3:1. Data were coded from probation and legal files which included information about the offender, the offence(s), and assessments and/or recommendations concerning the case written by the various court actors. Where possible, comparisons are made with the findings of a similar study carried out using 1979 data from the Winnipeg Juvenile Court.[5] Unfortunately, the northern and rural data are not as complete so comparison on all variables used in the earlier study is not possible. Where possible, comparison was also made with an observational study carried out in the Winnipeg court in 1981. Analysis of the 1981 data is not yet complete, so these comparisons are somewhat limited.[6]

3.3 Characteristics of Offenders

3.3.1 Sex

The overall distribution of males and females is very close to that found in most previous studies carried out in the U.S. and Canada--80 percent were males and 20 percent were females. There were some differences among types of sites, however, with a substantially higher proportion of females charged in Native communities (Table 3:2).

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[5] Cases diverted prior to court appearance have not been included in the Winnipeg data in order to ensure comparability with the northern and rural sample. There is no way to estimate the proportion of cases diverted from the northern and rural courts.

[6] All percentages reported from the 1981 study are rounded off to the nearest whole number. Also, coding of some items is not consistent with that of the Winnipeg 1979 and the northern and rural studies.

3.3.2 Age

The ages of the youth dealt with by the courts is shown in Table 3:3. The patterns are similar in all community types, though non-Native rural communities are more likely to deal with older juveniles than Native and mixed communities which have an over-representation of younger juveniles.

3.3.3 Living Arrangements

There are substantial differences in living arrangements between the two samples as shown in Table 3:4. Almost three-quarters (69.9% to 74.7%) of the rural youth are living with both parents compared with less than half of the youth in the two Winnipeg samples. A correspondingly lower percentage of the rural youth come from single-parent families. The difference in the percentages residing in foster homes and group homes may be due to the fact that such alternatives are less available in rural areas. This possibility is also reflected in Table 3:5 which indicates that 15.2 percent of the Winnipeg sample are wards of the Children's Aid Society (CAS) compared with only about 1 percent of the rural youth. Part of this difference may have been due to the greater ability of rural communities to deal with youth without resorting to formal agencies. However, it may also be due to the fact that when juveniles from rural areas were made wards of CAS, they were brought into the city.

3.3.4 Prior Involvement

Tables 3:6 and 3:7 indicate the prior involvement of the juveniles in our sample. Winnipeg youth were more likely to have been charged, as 72.5 percent had prior charges compared with about 40 percent of rural youth. Youth in Native communities were more likely to have prior

records than were those from the other two community types. While the Winnipeg sample had higher rates of prior charges, the overall rate of prior adjudication for rural communities was similar to that in Winnipeg (33.3 percent for combined rural communities). However, there were differences between rural community types with Native communities most likely to have had a prior adjudication and youth in non-Native communities least likely to have been adjudicated delinquent.

3.4 Characteristics of the Offence

3.4.1 Type of Offence

While the types of offences are too numerous to list completely, those which occurred most commonly are shown in Table 3:8. These data are consistent with U.S. studies which have presented this information with the major exception that in many U.S. jurisdictions status offences make up one-third of the Juvenile Court case load (Lerman 1973). Problems such as incorrigibility, promiscuity, running away from home, and truancy are not handled by the Manitoba courts but rather are dealt with in the child welfare system. In Manitoba, status offences consist largely of under-age alcohol possession and consumption cases.

There are a number of differences in the kinds of offences dealt with by the courts in different types of communities. Break and enters were more common in rural courts particularly in Native communities where they made up 38.8 percent of the total number of offences. Alcohol offences were also more common in rural Manitoba--in non-Native communities over one-half of the caseload consisted of illegal possession and consumption of alcohol and impaired driving. These offences were relatively infrequent in Native communities though the high rate of

alcohol-related problems in Native communities makes it likely that underage drinking does exist but that such cases are not referred to the juvenile court. Theft offences, on the other hand, are more common in Winnipeg than in rural areas. The same is true of drug offences, which were exclusively confined to Winnipeg. Winnipeg also had more offences which were classified as "other" because of their relatively low frequency. In Winnipeg, the "other" category included several offences which represented over 1 percent of the total: robbery, forgery, littering, threats, trespass, and driving offences. In Native communities the largest number of "other" offences involved arson. In Non-Native communities the largest number were forgery; and in mixed communities the most common were arson and assaulting a peace officer.

Multiple charges were common (Table 3:9). In the 1979 Winnipeg study, about one-third of the youths had more than one charge and 6.3 percent had more than 5. Multiple charges were even more common in the Winnipeg 1981 study. In rural areas, almost 60 percent of all juveniles had more than one charge, ranging from 47 percent in non-Native communities to 70 percent in Native communities.

3.4.2 Legal Processing

The use of detention varies widely among communities (Table 3:10). Detention was much more likely to be used in Winnipeg than in rural communities which is probably due to the availability of juvenile detention facilities in the city[1]. In some communities, it is

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[1] Many of those detained in Winnipeg are held only for a brief period. Of those detained, 81.5 percent were released prior to their initial court appearance. Only 9.5 percent of the total Winnipeg sample were held until their first appearance.

necessary to transport a youth to Winnipeg for detention thus confinement is likely to be used only in serious cases. The relatively high rate of detention in Native communities reflects the data shown in Table 3:8 which indicated that the offences which came to the attention of the juvenile court were more serious than in the other communities. It should be noted that data are missing on this variable for over one-half of the rural cases. Because missing data are more likely for cases where there was no detention, the figures shown in-Table 3:10 are overestimates of the rural detention rates. More realistic figures are probably less than one-half of those shown for detention in non-Native, Native and mixed communities.

Table 3:11 indicates the outcome of cases referred to the court system. In Winnipeg, 51.6 percent of the individuals referred to the court are ultimately found delinquent compared with 72.8 percent of those in rural areas. The rural sites were similar to one another in this regard. The other major difference between Winnipeg and rural courts is the percentage of cases adjourned sine die. In Winnipeg, 28.3 percent of cases were disposed of in this fashion, typically in cases where the judge did not wish the accused to have a record. In rural courts, only 8.7 percent of the cases were adjourned sine die, with very little difference between community types.

The dispositions of those cases found delinquent also show some differences between Winnipeg and rural courts. As shown in Table 3:12, probation was used much more often in rural courts, especially in Native communities due in part to the practice of assigning unsupervised probation because personnel from Probation Services are not regularly available in Native communities to supervise other types of

dispositions. The conditions of probation varied, with a prohibition from driving being most common in non-Native communities, community work orders for probationers most often assigned in Native communities, and restitution most often used in mixed communities. Dispositions such as fines, restitution and community work orders without probation were given most frequently in non-Native areas, where personnel are more likely to be available to supervise such dispositions. Institutionalization and commital to CAS were seldom used in rural areas.

3.5 Analysis of Variables Affecting Dispositions

In looking at the variables affecting disposition in the juvenile court, multiple regression analysis was used in order to examine the effects of individual independent variables while controlling for the other independent variables. In addition, we will present simple bivariate tables showing the relationships between each independent variable and disposition.

The independent variables which we have used are the legal variables of seriousness of offence, number of prior offences, and number of offences the youth is currently charged with as well as the extra-legal variables of age, sex, activity status, and living arrangements. We have also included remoteness of site as an extra-legal variable. We wished to look at the effects of race and class on disposition, but this was not possible since this information was seldom included in the files. Where more than one disposition was given at a time, the most serious disposition was coded. In some respects the stayed, dismissed or withdrawn category is not a disposition. While reasons vary for

terminating cases in this fashion it may be done because the evidence is insufficient, the charge is too trivial to bother with, or because witnesses cannot be found. Because of the difficulty in categorizing this variable, the analysis which follows will present two sets of statistics. One set will include this category in the dependent variable, the other will not.

3.6 Extra-Legal Variables

3.6.1 Age

Age has not been shown to be a strong predictor of disposition. While the expectation of most researchers has been that age will be positively related to disposition since younger offenders might be seen as less of a threat than older juveniles, one might also expect a negative relationship since younger boys might be seen as more amenable to the treatment efforts of the court. Studies by Harrington (1975), Perry (1978), and Carter (1979) found positive relationships between age and severity of disposition, i.e., older boys received more severe dispositions, though Harrington and Perry both found that the relationship disappeared when they controlled for prior record. Carter found age to be a significant predictor of disposition for status offences but not for non-status offences. McDonald et. al., (1977) and Marshall (1977) found that younger boys received more severe dispositions. However McDonald et. al., did not control for prior record and in Marshall's study the relationship was quite weak.

The relationship between age and disposition in the northern and rural communities is shown in Tables 3:13-3:16. The conclusion which can be drawn from these data is that younger boys do get more severe

dispositions. The nature of the relationship varied within dispositional categories as older youth were more likely to have their cases adjourned sine die or to receive a suspended sentence, a fine, or a restitution order. Younger boys were more likely to receive probation orders and to be institutionalized or committed to Children's Aid (none of the children under 14 were transferred). This latter finding reflects a greater likelihood of younger boys from inadequate homes being made wards of CAS. The data reflect a greater concern with treating and protecting younger juveniles, as probation and commital to CAS are dispositions which leave the juvenile in the care of the province. These relationships are consistent for both Native and mixed communities, while there is no relationship in non-Native communities. The overall relationship is similar to that found in the Winnipeg study though the correlation between age and disposition was relatively weak in Winnipeg.

One should be cautious about drawing conclusions on the basis of this table (and the other tables in this section), since the relationships may be explained by other factors. For instance, it may be the case that younger juveniles who have committed relatively minor offences are more likely to be screened out by the court intake officer than are their older counterparts. Thus those younger juveniles who do enter the court system may have committed more serious offences or have more extensive prior involvements than have the older boys. We will be able to test this in the multiple regression analysis where we can control for other variables such as seriousness of offence and prior record.

3.6.2 Sex

Sex is another variable which has not been found to be strongly related to juvenile court disposition. One exception to this was a study by Datesman and Scarpitti. They found that "the family court makes less severe dispositions against female juveniles than against males when they are involved in a criminal offence but more severe dispositions against females than males when they are involved in a noncriminal status offence, especially when they have a prior offence record" (1977:72). They feel that this reflects the fact that the court views females in a traditional manner and sees them as being less dangerous when they commit criminal acts, but in greater need of control when they go astray morally. This view is also supported by Harrington (1975), who found that females were more likely to get a smaller period of probation than males but were also more likely to be institutionalized. This relationship was strongest for the least serious offences, which again suggests that females were seen as being in need of protection.

Thomas and Cage (1977) found that boys received harsher treatment than did girls. Under controls, this relationship seemed limited to those juveniles with no prior record. Studies by Carter (1979), McDonald et. al. (1977), Marshall (1977), and Dannefer and Schutt (1982) found no relationship between sex and severity of disposition. Carter separated status from non-status offences in an attempt to replicate Datesman and Scarpitti but found that "sex failed to contribute to the predictive success of the discriminant function at any disposition level" (1979:355).

The results for the rural study, which are shown in Tables 3:17-3:20 indicate a weak relationship between sex and disposition.

However, the strength of the relationship increased when the stayed, dismissed or withdrawn category was excluded, particularly in Native and non-Native communities. This means that males were more likely to receive a harsh disposition than were females. The major difference shown in both these types of communities is that females are more likely to receive an adjournment sine die than are males. Similar results were obtained in the Winnipeg study though the correlations in Winnipeg were a good deal stronger than those reported for all but non-Native communities.

3.6.3 Activity Status

Another extra-legal variable which has been hypothesized to affect disposition is the activity status of the child. The assumption is that youth who are attending school or working will receive a more favorable disposition than will youth who are idle. Idle youth may be seen as having greater need of supervision and treatment, or they may be perceived as a greater threat because of their lack of commitment to conventional activities. While Marshall (1977) found that activity status was not related to disposition, it was found to be a moderately good predictor of disposition by Thomas and Cage (1977) and by Cohen and Kluegel (1978).

In this study we have coded a child as either employed, attending school full-time, or doing both, or as unemployed or working part-time. The relationship between present activity and disposition is shown in Tables 3:21-3:24. In the Winnipeg study, there was a moderate positive correlation between activity status and disposition. In the rural sample, however, there is a weak negative relationship overall but with considerable variation among communities. Thus in non-Native

communities, youth who were going to school or working received the least severe dispositions, while in mixed communities this was reversed. These differences were largely due to unemployed youth being given probation in non-Native communities. We would urge caution in the interpretation of these findings, however, since data on activity status were available for only 40 percent of our sample.

3.6.4 Family Status

Some researchers have tried to determine if children from broken homes receive harsher dispositions. This result would be expected both from the labelling/conflict perspective and from those who feel that the juvenile court is a treatment-oriented institution. Presumably, children from broken homes can be seen as less able to resist a delinquent label, as fitting the delinquent stereotype held by those with the power to apply such a label, and as more in need of treatment because of their family situation.

Despite this expectation, the relationship between family status and disposition has been found to be very weak. Thomas and Cage, Carter and Marshall found no significant relationship when controls were imposed, while Dannefer and Schutt found a weak relationship in one of the counties they studied. Only Perry found a "low moderate tendency for disrupted families to receive a more severe case disposition" (1978:86).

The rural data are shown in Tables 3:25-3:28. As in the Winnipeg study, there is virtually no relationship between family status and disposition in any of the community types. The size of our sample does not allow us to impose controls on this relationship.

3.6.5 Remoteness and Disposition

A common concern noted by key actors was that the more remote sites would have a narrower range of dispositional alternatives available to them and thus we should discover different patterns of dispositions. The following table displays the relationship between disposition type and degree of remoteness. The remoteness dimension was categorized in the following manner:

LOW	MODERATE	HIGH
Beausejour	Norway House	Shammattawa
Flin Flon	Cross Lake	Pukatawagan
The Pas	Lynn Lake/Leaf Rapids	God's Lake Narrows
Thompson	Grand Rapids	Bloodvein
Dauphin	Sandy Bay	
Swan River	Rossburn	
Minnedosa/Neepawa	Fisher Branch/Koostatak	
Morden		
Pine Falls		
Wabowden		
Roseau River		

The rationale for this classification hinges upon how close each site is to the district offices for the main key actor groups. Those communities in the low category have district offices in the community or within very close driving distance. The communities in the moderate category do not have a district office in the community but one is located within a couple of hours drive. The communities in the high remoteness category are only accessible by airplane and are clearly the most difficult sites in which to maintain ongoing contacts. This

classification is superior to north/south dichotimization since a site like Thompson is a northern community, but it is a well-established government service community and the residents are close to key court actors.

Inspection of Table 3:29 shows that the pattern of dispositions is very similar for low and moderately remote sites. The main difference in the distribution is between these and the remote centres. In remote sites, the less serious dispositions are under-utilized and probation, transfer to adult court, institutionalization and commital to child welfare dispositions are much more prevalent.

3.7 Legal Variables

3.7.1 Current Offence

All of the studies we have reviewed have looked at some measure of the seriousness of the charges against the juvenile. Most have found that the nature of the offence does have an impact on disposition and several (Thornberry, Cohen and Kluegel, McDonald et. al.) have found that it was the best predictor of disposition. This indicates that juvenile courts are concerned with legal variables.

In this study we looked at two dimensions of the current charges faced by a youth. First of all, we looked at the number of charges faced by the juvenile. Second, we developed a seriousness scale which closely followed the ranking in the Sellin-Wolfgang scale. Some of the apparent anomalies in this scale were removed using the seriousness scale developed by Rossi et. al, (1974). For simplicity of presentation as well as for purposes of comparability with previous research we have coded this scale as serious, less serious, and status offences. The

dividing line between the two levels of seriousness was drawn between break and enter and theft under $200 (less serious) and break and enter and theft over $200 (serious). Status offences included such offences as minor consume and possession of alcohol, driving under-age, and glue-sniffing. We also ran our analysis using the raw seriousness scores and the results were virtually identical to those which will be presented here.

The relationship between number of offences and disposition is shown in Tables 3:30-3:33. Quite clearly, those youth who have a number of current charges receive the harshest disposition. This is true for all community types and is particularly strong when the stayed, dismissed, and withdrawn cases are excluded. This is best illustrated by looking at those youth who receive the most severe dispositions. Only 1 percent of juveniles with one charge were given a disposition in this category, while almost 18 percent of those juveniles with six or more charges are given a severe disposition. The relationship between number of charges and disposition for rural communities is almost identical to that found in the Winnipeg study.

This similarity also holds for the relationship between seriousness and disposition. The data presented in Tables 3:34-3:37 show a moderately strong relationship between offence characteristics and disposition, particularly when the stayed, dismissed, withdrawn category is excluded. Those youth who committed the most serious offences received the harshest treatment by the courts. This pattern was true of all community types, though the correlation was somewhat lower for non-Native communities and higher in Native communities.

3.7.2 Prior Record

The other legal variable commonly used in previous research has been the extent of a juvenile's prior record. Like offence characteristics, prior record has been found to be a consistent predictor of disposition. All of the studies reviewed found a relationship between prior record and the outcome of juvenile court cases. In several of the studies prior record was the best predictor of disposition. Either because judges feel that repeat offenders need to be taught a lesson or because they feel that recidivism indicates a greater need for treatment, harsher sanctions are imposed on this group of offenders.

The data present in Tables 3:38-3:41 indicate that repeat offenders also receive more severe dispositions in the rural courts. The clearest indication of this occurrence is shown once again in the most severe disposition category. Only two percent of first offenders were included in this category compared with almost one-quarter of those youth with the most extensive prior records. Again, the relationship was strongest in Native communities. As with the other legal variables, the correlations were similar in magnitude to those from the Winnipeg study.

The results of the bivariate analysis indicate that in northern and rural Manitoba courts, legal variables are more strongly related to disposition than are extra-legal variables. Age, activity status and remoteness are not strongly related to disposition, while there is almost no relationship between disposition and either sex or family status. However, all of the legal variables are moderately related with disposition.

3.8 Multiple Regression Analysis

The next step in our analysis is to look at the influence of each of these variables while simultaneously controlling for each of the

other independent variables. This will be done using multiple regression. Since activity status and sex are both nominal, they are included in the regression as dummy variables.

The results of the analysis are shown in Table 3:42 and 3:43. When all five categories are included in the dependent variable, the strongest predictors of disposition are number of current offences and prior record. The exception to this is in non-Native communities where age and family status are the best predictors. When those cases which were stayed, dismissed, or withdrawn are excluded (Table 43) the proportion of variance explained increases substantially. The strongest predictors are numbers of current offences, prior record, seriousness and, for Native communities, age.

3.9 Discussion

The results of this study are relatively consistent with previous research which has, with few exceptions, found that legal variables were more important than extra-legal variables in predicting juvenile court dispositions. For both the rural and Winnipeg courts, the strongest relationships with disposition were found for number of current offences and extent of prior record. The court will hand down the most severe dispositions to youth who re-appear in court many times and who have a record suggesting chronic involvement in delinquency. The effect of continuing involvement is also reflected in the strong association between the number of current offences and severity of disposition. This measure of involvement was the most important variable in this study. It is significant that both prior record and number of current

offences are more important in dispositional decision-making than the seriousness of current offences.

Extra-legal factors appear to play a very minor role in determining disposition in Manitoba courts. Looking at the regressions excluding the stayed, withdrawn and dismissed cases, age was moderately related to disposition in Native and mixed communities and sex was related to disposition in non-Native communities. Overall, the strongest predictors were number of current offences, prior record, and seriousness. While the predictor variables explained more of the variance in dispositions in the Winnipeg court, the similarities between the various types of communities suggests that the dispositional process operates in the same fashion throughout the province.

3.10 Case Processing

The use of the legal files for this study has made it possible to describe the length of time it takes to move a case to completion in the hinterland. In addition, we are able to describe the number of hearings that are required for cases which is especially important when one considers how infrequent court dates are set for some sites in the circuit court.

3.10.1 Length of Time Between Date of Offences and Information Laid

Charges are laid rather quickly for cases where the police have sufficient information to identify a possible offender. In over 40 percent of the cases the charge is laid within two weeks and in 63 percent of the cases within one month. By the end of two months 75 percent of the charges are laid and by the end of six months over 96

percent of all charges have been laid. As shown in Table 3:44, this varies somewhat by community, with the longest elapsed time occurring in Native communities.

3.10.2 Length of Time Between Date Information Laid and First Appearance

The length of time between these events is more significant in that it reflects the time it takes to process charges within the juvenile court. Almost 90 percent of the cases come to court within one month of the charges being laid and virtually all of them come to court within two months (Table 3:45). Again, cases in Native communities are processed more slowly which probably is a result of the relative infrequency of court dates in some sites due to low volume or bad weather. Given the constraints of the court circuit, cases are brought to court reasonably fast. Unfortunately, comparable data are not available from the Winnipeg court studies.

3.10.3 Length of Time Between Date of Offence and Date of First Appearance

This measurement of time passage is a combination of the previous two tables. Even though the system is relatively efficient, actual passage of time from offence to formal appearance in court can be a significant time for some juveniles, especially in Native communities (Table 3:46). In these communities, 30 percent of juveniles do not appear in court until at least 3 months from the date of committing the offence.

3.10.4 Length of Time Between Date of First Appearance and Last Appearance

This particular measure of time is the best description of the length of time it takes the circuit court to process a case. While the court will still be dependent upon the appearance of juveniles and parents, it does have more direct control over the length of time required to complete the case after first appearance. This particular analysis also bears directly on a repeated concern of many respondents in our study; the process is too slow. In this instance, we were able to compare the rural courts with the 1979 Winnipeg file study in order to determine if the circuit court is significantly different in the length of time it requires to process cases.

As shown in Tables 3:47 and 3:48, the processing of cases proceeds rather quickly, especially if one considers how infrequently court is held in many sites included in the study. Over 50 percent of the rural cases are processed at a single court appearance and 65 percent of them are completed within a month. The process is fastest in non-Native communities where almost 70 percent are completed in one appearance, and slowest in mixed communities.

When we compare this with the processing time required in Winnipeg in 1979, we find that the length of time is comparable and that cases are actually processed as quickly in rural communities as they were in Winnipeg in 1979, and more quickly than was the case in Winnipeg in 1981.

This comparison shows that the circuit court is not a slower system of case processing than the urban court. Although court dates are more infrequent, and although key actors and community officials perceive the

to be too slow, the use of a circuit court is not making case processing any slower than the processing of cases with a stationary court.

3.10.5 Number of Hearings Required to Process Cases

The data gathered from the legal file also made it possible to describe the speed of court processing in terms of the number of times a case is considered in court before disposition. This "measure" of length of process is freed from the variable length of time between court dates at the various sites and is perhaps a superior indicator. When we look at Table 3:49 it is clear that most cases are processed very quickly. Over 45 percent of the cases are disposed of in a single hearing and within three hearings over 80 percent of the cases were brought to their conclusion. The courts in mixed communities required the greatest number of hearings. Further analysis of this variables indicated that the communities of Thompson and The Pas, which had resident courts, accounted for the greater number of hearings in mixed communities. This is likely because it is easier to justify adjournments for relatively minor reasons if court personnel know that the next appearance will not be delayed for several months as would be the case in communities served by the circuit court.

In conclusion, the hinterland circuit court compares quite favourably with the Winnipeg court in terms of speed of processing in spite of all the logistical problems that are associated with circuit court justice. Even in the most remote sites, this system manages to bring cases to a conclusion at the same rate as achieved in Winnipeg.

TABLE 3:1

NUMBER OF CASES FROM EACH SITE

		PERCENT
Thompson	57	6.4
The Pas	56	6.3
Flin Flon	57	6.4
Grand Rapids	41	4.6
Lynn Lake-Leaf Rapids	21	2.4
God's Lake Narrows	33	3.7
Norway House	61	6.9
Shamattawa	28	3.2
Pukatawagan	25	2.8
Cross Lake	28	3.2
Morden	40	4.5
Beausejour	62	7.0
Minnedosa-Neepawa	58	6.6
Dauphin	55	6.2
Swan River	43	4.9
Roseau River	20	2.3
Pine Falls	40	4.5
Fisher Branch-Koostatak	42	4.8
Sandy Bay	25	2.8
Rossburn	48	5.4
Wabowden	14	1.6
Bloodvein	30	3.4
	884	100.0

TABLE 3:2

SEX OF YOUTH PROCESSED BY NORTHERN AND RURAL AND WINNIPEG JUVENILE COURTS (IN PERCENT)

	NON-NATIVE	NATIVE	MIXED	WINNIPEG 1979	WINNIPEG[1] 1981
Male	87.1	71.2	81.5	83.4	86
Female	12.9	28.8	18.5	16.6	14
	N = 217	N = 250	N = 417	N = 699	N = 581

TABLE 3:3

AGE OF YOUTH PROCESSED BY NORTHERN AND RURAL AND WINNIPEG JUVENILE COURTS (IN PERCENT)

AGE	NON-NATIVE	NATIVE	MIXED	WINNIPEG 1979	WINNIPEG 1981
17	39.1	25.7	28.4	33.7	29
16	37.7	26.5	27.5	23.3	26
15	10.2	20.8	20.6	16.6	19
14	7.9	14.7	11.3	17.9	14
13	3.3	9.0	8.1	7.0	8
12	0.5	2.9	3.9	3.9	4
11	1.4	0.4	0.2	0.3	0
10 and below				0.4	0
	N = 215	N = 245	N = 408	N = 698	N = 572

TABLE 3:4

LIVING ARRANGEMENTS (IN PERCENT)

	NON-NATIVE	NATIVE	MIXED	WINNIPEG 1979	WINNIPEG 1981
Two parents	74.7	71.8	69.9	46.1	47
One parent	16.5	12.4	17.1	31.9	32
Institution or foster/group home	1.6	3.0	3.2	14.5	11
Other (Relatives, independent)	7.1	12.9	9.8	7.6	10
	N = 182	N = 202	N = 346	N = 696	N = 572

TABLE 3:5

LIVING ARRANGEMENTS (IN PERCENT)

	NON-NATIVE	NATIVE	MIXED	WINNIPEG 1979	WINNIPEG 1981
Parental	95.7	84.9	91.0	80.6	83
Temporary CAS	0.0	0.0	1.2	5.9	14
Permanent CAS	0.0	1.4	1.2	9.3	14
On Probation	0.0	0.0	0.0	4.2	3
Guardian	4.3	13.7	6.6	0.0	3
	N = 162	N = 212	N = 346	N = 696	N = 568

TABLE 3:6

NUMBER OF PRIOR CHARGES, WHETHER ADJUDICATED DELINQUENT OR NOT (IN PERCENT)

	NON-NATIVE	NATIVE	MIXED	WINNIPEG 1979	WINNIPEG 1981
0	66.2	54.4	64.3	27.5	Not
1	15.9	12.6	6.3	17.3	Available
2	5.5	7.4	9.8	11.6	
3	1.4	5.1	4.5	6.2	
4	1.4	4.7	2.7	4.7	
5	3.4	3.3	2.4	3.9	
6-10	5.5	6.5	5.1	15.6	
11-15	.7	4.7	2.1	5.0	
16-20	0.0	.5	1.8	3.9	
More than 20	0.0	1.0	1.2	4.7	
	N = 145	N = 215	N = 336	N = 699	

TABLE 3:7

WAS THE OFFENDER PREVIOUSLY ADJUDICATED DELINQUENT (IN PERCENT)

	NON-NATIVE	NATIVE	MIXED	WINNIPEG 1979	WINNIPEG 1981
Yes	24.8	40.5	32.7	35.9	31
No	75.2	59.5	67.3	64.1	69
	N = 145	N = 215	N = 366	N = 697	N = 581

TABLE 3:8

MOST COMMON OFFENCES (IN PERCENT)

	NON-NATIVE	NATIVE	MIXED	WINNIPEG 1979	WINNIPEG 1981
Break and Enter	14.3	38.8	28.3	19.2	Not Coded in Similar Fashion --However, Where Comparison Possible, was Similar to Winnipeg 1979
Minor Possess and Consume Alcohol	35.0	11.2	21.4	13.9	
Drive while impaired (also over .08)	18.9	3.2	9.1	2.6	
Willful Damage	8.3	10.4	5.5	5.2	
Theft under $200	8.3	5.6	10.3	16.0	
Common Assault	2.3	10.4	4.6	5.3	
Theft over $200	6.5	8.4	7.4	11.2	
Weapons offences	0.5	4.8	4.8	1.3	
Possess Stolen Goods	1.8	0.0	2.2	3.6	
Drugs	0.0	0.0	0.0	5.6	
Others	4.1	7.2	6.2	15.9	
	N = 217	N = 250	N = 417	N = 699	

TABLE 3:9

NUMBER OF SAMPLE CHARGES (IN PERCENT)

	NON-NATIVE	NATIVE	MIXED	WINNIPEG 1979	WINNIPEG 1981
1	53.0	30.0	42.0	53.4	57
2	18.4	26.8	22.5	20.8	18
3	11.5	14.4	12.2	8.6	15
4	6.0	9.2	7.0	5.4	
5	2.8	6.8	4.1	2.9	10
6 or more	8.3	12.8	12.2	8.9	
	N = 217	N = 250	N = 417	N = 698	N = 581

TABLE 3:10

WAS OFFENDER DETAINED ON CURRENT CHARGES (IN PERCENT)

	NON-NATIVE	NATIVE	MIXED	WINNIPEG 1979	WINNIPEG 1981
Yes	16.5	41.3	32.0	53.6	55
No	83.5	58.7	68.0	46.4	45
	N = 79	N = 104	N = 206	N = 673	N = 565

TABLE 3:11

OUTCOME OF CASES REFERRED TO THE COURT
(IN PERCENT)

	NON-NATIVE	NATIVE	MIXED	WINNIPEG 1979	WINNIPEG 1981
Stayed	15.8	12.0	16.5	15.7	
Dismissed	1.4	0.8	1.4	2.9	15
Withdrawn	0.0	0.0	0.2	0.4	
Adjourned sine die (section 16)	7.0	7.6	8.6	28.3	21
Transfer to adult court	1.0	2.8	1.4	1.1	0
Found delinquent	74.9	76.7	71.7	51.6	65
	N = 215	N = 249	N = 417	N = 699	N = 543

TABLE 3:12

DISPOSITION OF THOSE CASES FOUND DELINQUENT (IN PERCENT)

	NON-NATIVE	NATIVE	MIXED	WINNIPEG 1979	WINNIPEG 1981
Fine, restitution, community work order, etc.	64.0	30.4	47.5	64.0	58
Probation	34.8	65.4	49.2	26.0	34
Institutionalization or Committal to CAS	1.2	4.2	3.3	10.0	8
	N = 161	N = 191	N = 299	N = 361	N = 350

TABLE 3:13

RELATIONSHIP BETWEEN AGE AND DISPOSITION IN ALL COMMUNITIES (IN PERCENT)

	STAYED DISMISSED WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED, FINE RESTITUTION	PROBATION	TRANSFER INSTITUTIONALIZATION, COMMITAL TO CAS	
17	19.3	4.8	49.4	24.1	2.4	N = 8
16	12.5	7.5	51.3	27.5	1.3	N = 8
15	27.3	18.2	40.9	13.6	0.0	N = 2
14	5.9	0.0	29.4	52.9	11.8	N = 1
13	14.3	28.6	42.9	14.3	0.0	N = 7
11-12	75.0	0.0	25.0	0.0	0.0	N = 4

Gamma = 0.0
Gamma excluding stayed, dismissed, withdrawn = .01

TABLE 3:14

RELATIONSHIP BETWEEN AGE AND DISPOSITION IN NON-NATIVE COMMUNITIES (IN PERCENT)

AGE	STAYED DISMISSED WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED, FINE RESTITUTION	PROBATION	TRANSFER INSTITUTIONALIZATION, COMMITAL TO CAS	
17	19.5	6.5	43.5	26.0	4.6	N = 26
16	13.2	10.5	35.8	37.4	3.1	N = 25
15	21.3	12.8	25.0	39.1	1.9	N = 15
14	9.1	4.0	21.2	59.6	6.1	N = 99
13	16.1	11.3	21.0	45.2	6.5	N = 62
11-12	24.1	6.9	10.3	48.3	10.3	N = 29

Gamma = .15
Gamma excluding stayed, dismissed, withdrawn = .20

TABLE 3:15

RELATIONSHIP BETWEEN AGE AND DISPOSITION IN NATIVE COMMUNITIES (IN PERCENT)

AGE	STAYED DISMISSED WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED, FINE RESTITUTION	PROBATION	TRANSFER INSTITUTIONALIZATION, COMMITAL TO TO CAS	
17	17.5	7.9	30.2	24.9	9.5	N = 6
16	7.7	9.2	24.6	53.8	4.6	N = 6
15	14.0	10.0	16.0	58.0	2.0	N = 5
14	13.9	0.0	16.7	61.1	8.3	N = 3
13	13.6	13.6	18.2	45.5	9.1	N = 2
11-12	0.0	12.5	0.0	75.0	12.5	N = 8

Gamma = .13
Gamma excluding stayed, dismissed, withdrawn = .24

TABLE 3:16

RELATIONSHIP BETWEEN AGE AND DISPOSITION IN MIXED COMMUNITIES (IN PERCENT)

AGE	STAYED DISMISSED WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED, FINE RESTITUTION	PROBATION	TRANSFER INSTITUTIONALIZATION, COMMITAL TO TO CAS	
17	20.7	6.9	46.6	22.4	3.4	N = 116
16	17.0	13.4	31.3	34.8	3.6	N = 112
15	23.8	13.1	26.2	34.5	2.4	N = 84
14	6.5	8.7	21.7	60.9	2.2	N = 46
13	18.2	6.1	18.2	51.5	6.1	N = 33
11-12	23.5	5.9	11.8	47.1	11.8	N = 17

Gamma = .17
Gamma excluding stayed, dismissed, withdrawn = .24

TABLE 3:17

RELATIONSHIP BETWEEN SEX AND DISPOSITION IN ALL COMMUNITIES (IN PERCENT)

SEX	STAYED, DISMISSED WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED, FINE, RESTITUTION	PROBATION	TRANSFER ETC.	
Male	18.2	7.4	32.9	36.9	4.7	N = 705
Female	11.7	17.2	31.8	39.8	2.8	N = 176

Gamma = .02
Gamma excluding stayed, dismissed, withdrawn = -.11

TABLE 3:18

RELATIONSHIP BETWEEN SEX AND DISPOSITION IN NON-NATIVE COMMUNITIES (IN PERCENT)

SEX	STAYED, DISMISSED WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER ETC.	
Male	18.7	4.8	48.1	25.7	2.7	N = 187
Female	7.1	25.0	42.9	25.0	0.0	N = 28

Gamma = -.07
Gamma excluding stayed, dismissed, withdrawn = -.39

TABLE 3:19

RELATIONSHIP BETWEEN SEX AND DISPOSITION IN NATIVE COMMUNITIES (IN PERCENT)

SEX	STAYED, DISMISSED WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER, ETC.	
Male	14.6	6.2	20.8	49.4	9.0	N = 178
Female	8.5	12.7	23.9	53.5	1.4	N = 71

Gamma = -.09
Gamma excluding stayed, dismissed, withdrawn = -.26

TABLE 3:20

RELATIONSHIP BETWEEN SEX AND DISPOSITION
IN MIXED COMMUNITIES (IN PERCENT)

SEX	STAYED, DISMISSED WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED, FINE, RESTITUTION	PROBATION	TRANSFER ETC.
Male	19.7	9.4	30.9	36.5	3.5
Female	15.6	11.7	35.1	32.5	5.2

Gamma = .01
Gamma excluding stayed, dismissed, withdrawn = -.07

TABLE 3:21

RELATIONSHIP BETWEEN ACTIVITY STATUS AND DISPOSITION FOR ALL COMMUNITIES (IN PERCENT)

ACTIVITY STATUS	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
Employed or school full-time	12.0	9.2	30.9	43.7	4.2	N = 35
Unemployed and not attending school	18.0	6.3	33.3	35.1	7.2	N = 11

Gamma = -.07
Gamma excluding stayed, dismissed, withdrawn = .02

TABLE 3:22

RELATIONSHIP BETWEEN ACTIVITY STATUS AND DISPOSITION FOR NON-NATIVE COMMUNITIES (IN PERCENT)

ACTIVITY STATUS	STAYED DISMISSED WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
Employed or school full-time	11.6	7.4	50.5	29.5	1.1	N = 95
Unemployed and not attending school	18.5	3.7	29.6	40.7	7.4	N = 27

Gamma = .18
Gamma excluding stayed, dismissed, withdrawn = .44

TABLE 3:23

RELATIONSHIP BETWEEN ACTIVITY STATUS AND DISPOSITION FOR NATIVE COMMUNITIES (IN PERCENT)

ACTIVITY STATUS	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
Employed or school full-time	9.1	9.1	14.8	59.1	8.0	N = 88
Unemployed and not attending school	18.2	0.0	22.7	45.5	13.6	N = 22

Gamma = -.06
Gamma excluding stayed, dismissed, withdrawn = .12

TABLE 3:24

RELATIONSHIP BETWEEN ACTIVITY STATUS AND DISPOSITION FOR MIXED COMMUNITIES (IN PERCENT)

ACTIVITY STATUS	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
Employed or school full-time	13.6	10.2	28.4	43.8	4.0	N = 17
Unemployed and not attending school	17.7	9.7	38.7	29.0	4.8	N = 62

Gamma = -.16
Gamma excluding stayed, dismissed, withdrawn = -.17

TABLE 3:25

RELATIONSHIP BETWEEN FAMILY STATUS AND DISPOSITION IN ALL COMMUNITIES (IN PERCENT)

FAMILY STATUS	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
Two parents	18.2	8.3	31.7	37.4	4.4	N = 52
One parent	12.3	7.9	39.5	35.1	5.3	N = 114
Relative or other	16.3	13.0	17.4	50.0	3.3	N = 92

Gamma = .07
Gamma excluding stayed, dismissed, withdrawn = .03

TABLE 3:26

RELATIONSHIP BETWEEN FAMILY STATUS AND DISPOSITION IN NON-NATIVE COMMUNITIES (IN PERCENT)

FAMILY STATUS	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
Two parents	20.0	7.4	45.9	24.4	2.2	N = 135
One parent	6.7	10.0	60.0	20.0	3.3	N = 30
Relative or other	20.0	0.0	40.0	40.0	0.0	N = 15

Gamma .14
Gamma excluding stayed, dismissed, withdrawn = .04

TABLE 3:27

RELATIONSHIP BETWEEN FAMILY STATUS AND DISPOSITION
IN NATIVE COMMUNITIES (IN PERCENT)

FAMILY STATUS	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
Two parents	19.8	9.5	30.2	38.0	2.5	N = 242
One parent	18.6	6.8	33.9	32.2	8.5	N = 59
Relative or other	15.6	17.8	20.0	42.2	4.4	N = 45

Gamma = .06
Gamma excluding stayed, dismissed, withdrawn = .04

TABLE 3:28

RELATIONSHIP BETWEEN FAMILY STATUS AND DISPOSITION
IN MIXED COMMUNITIES (IN PERCENT)

FAMILY STATUS	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED, FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
Two parents	19.8	9.5	30.2	38.0	2.5	N = 242
One parent	6.8	33.9	33.9	32.2	8.5	N = 59
Relative or other	15.6	17.8	20.0	42.2	4.4	N = 45

Gamma = .06
Gamma excluding stayed, dismissed, withdrawn = .04

TABLE 3:29

REMOTENESS OF SITE AND DISPOSITION (IN PERCENT)
(N = 881)

REMOTENESS OF SITE	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITTED TO CAS
Low	18.8	8.8	35.4	32.0	5.0 (500)
Moderate	15.8	10.2	33.6	38.5	1.9 (265)
High	10.3	5.2	19.0	58.6	6.9 (116)

Gamma = .17
Gamma (excluding stayed, dismissed, withdrawn) = .17

TABLE 3:30

RELATIONSHIP BETWEEN NUMBER OF CURRENT CHARGES AND DISPOSITION IN ALL COMMUNITIES (IN PERCENT)

NUMBER OF CURRENT CHARGES	STAYED, DISMISSED WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS
One	10.8	13.5	47.0	27.3	1.4 (362)
Two	19.7	8.5	34.8	35.8	1.5 (201)
Three	27.7	1.8	19.6	47.3	3.6 (112)
Four	21.5	6.2	12.3	53.8	6.2 (65)
Five	17.5	5.0	22.5	45.0	10.0 (40)
Six or more	16.8	3.0	9.9	52.5	17.8 (101)

Gamma = .21
Gamma (excluding stayed, dismissed, withdrawn) = .50

TABLE 3:31

RELATIONSHIP BETWEEN NUMBER OF CURRENT CHARGES AND DISPOSITION IN NON-NATIVE COMMUNITIES (IN PERCENT)

NUMBER OF CURRENT CHARGES	STAYED DISMISSED WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
One	10.6	11.5	54.0	22.1	1.8	N = 113
Two	17.5	2.5	52.5	27.5	0.0	N = 40
Three	32.0	0.0	44.0	24.0	0.0	N = 25
Four	38.5	7.7	23.1	30.8	0.0	N = 13
Five	16.7	0.0	50.0	33.3	0.0	N = 6
Six or more	22.2	5.6	16.7	38.9	16.7	N = 18

Gamma = .02
Gamma excluding stayed, dismissed and withdrawn = .36

TABLE 3:32

RELATIONSHIP BETWEEN NUMBER OF CURRENT CHARGES AND DISPOSITION IN NATIVE COMMUNITIES (IN PERCENT)

NUMBER OF CURRENT CHARGES	STAYED DISMISSED WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITTAL TO CAS	
One	6.8	10.8	39.2	40.5	2.7	N = 74
Two	16.4	11.9	20.9	46.3	4.5	N = 67
Three	13.9	5.6	11.1	63.9	5.6	N = 36
Four	17.4	4.3	4.3	65.2	8.7	N = 23
Five	17.6	0.0	11.8	52.9	17.6	N = 17
Six or more	12.5	3.1	12.5	56.3	15.6	N = 32

Gamma = .22
Gamma excluding stayed, dismissed, withdrawn = .43

TABLE 3:33

RELATIONSHIP BETWEEN NUMBER OF CURRENT CHARGES AND DISPOSITION IN MIXED COMMUNITIES (IN PERCENT)

NUMBER OF CURRENT CHARGES	STAYED, DISMISSED WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITTAL TO CAS	
One	12.6	16.0	45.7	25.1	.6	N = 175
Two	23.4	8.5	36.2	31.9	0.0	N = 94
Three	35.3	0.0	13.7	47.1	3.0	N = 51
Four	17.2	6.9	13.8	55.2	6.9	N = 29
Five	17.6	11.8	23.5	41.2	5.9	N = 17
Six or more	17.6	2.0	5.9	54.9	19.6	N = 51

Gamma = .24
Gamma excluding stayed, dismissed, withdrawn = .57

TABLE 3:34

RELATIONSHIP BETWEEN SERIOUSNESS OF CURRENT CHARGES AND DISPOSITION IN ALL COMMUNITIES (IN PERCENT) (N = 881)

SERIOUSNESS OF CURRENT CHARGES	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS
Status	11.0	12.6	61.3	15.2	0.0 (191)
Less serious	11.6	13.3	36.4	38.7	0.0 (173)
Serious	20.7	5.8	20.9	45.3	7.7 (517)

Gamma = .24
Gamma (excluding stayed, dismissed, withdrawn), = .55

TABLE 3:35

RELATIONSHIP BETWEEN SERIOUSNESS OF CURRENT CHARGES AND DISPOSITION IN NON-NATIVE COMMUNITIES (IN PERCENT)

SERIOUSNESS OF CURRENT CHARGES	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
Status	10.7	13.3	54.7	21.3	0.0	N = 75
Less serious	2.6	10.5	60.5	26.3	0.0	N = 38
Serious	27.5	2.0	37.3	28.4	4.9	N = 102

Gamma = .03
Gamma excluding stayed, dismissed, withdrawn = .39

TABLE 3:36

RELATIONSHIP BETWEEN SERIOUSNESS OF CURRENT CHARGES AND DISPOSITION IN NATIVE COMMUNITIES (IN PERCENT)

SERIOUSNESS OF CURRENT CHARGES	STAYED, DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED, FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
Status	3.7	3.7	74.1	18.5	0.0	N = 27
Less serious	16.1	8.9	19.6	55.4	0.0	N = 56
Serious	13.3	8.4	13.9	54.2	10.2	N = 166

Gamma = .29
Gamma excluding stayed, dismissed, withdrawn = .47

TABLE 3:37

RELATIONSHIP BETWEEN SERIOUSNESS OF CURRENT CHARGES AND DISPOSITION IN MIXED COMMUNITIES (IN PERCENT)

SERIOUSNESS OF CURRENT CHARGES	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS
Status	13.5	14.6	62.9	9.0	0.0
Less serious	12.7	17.7	36.7	32.9	0.0
Serious	22.9	5.6	18.9	46.2	6.4

Gamma = .27
Gamma excluding stayed, dismissed, withdrawn = .62

TABLE 3:38

RELATIONSHIP BETWEEN NUMBER OF PRIOR CHARGES AND DISPOSITION IN ALL COMMUNITIES (IN PERCENT)

PRIOR RECORD	STAYED, DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS
No priors	16.6	10.7	34.1	36.4	1.9 (428)
One to five	18.3	4.1	22.3	48.7	6.6 (191)
Six to ten	13.2	7.9	15.8	50.0	13.2 (38)
Eleven or more	9.7	9.7	25.8	32.3	22.6 (31)

Gamma = .24
Gamma excluding stayed, dismissed, withdrawn = .37

TABLE 3:39

RELATIONSHIP BETWEEN NUMBER OF PRIOR CHARGES AND DISPOSITION IN NON-NATIVE COMMUNITIES (IN PERCENT)

PRIOR RECORD	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
No priors	14.6	8.3	53.1	22.9	1.0	N = 96
One to five	22.5	0.0	30.0	42.5	5.0	N = 40
Six to ten	14.3	0.0	71.4	14.0	0.0	N = 7
Eleven or more	0.0	0.0	0.0	0.0	100.0	N = 1

Gamma not calculated due to large number of empty cells

TABLE 3:40

RELATIONSHIP BETWEEN NUMBER OF PRIOR CHARGES AND DISPOSITION IN NATIVE COMMUNITIES (IN PERCENT)

PRIOR RECORD	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
No priors	15.5	12.1	25.0	46.6	.9	N = 116
One to five	14.1	1.4	15.5	57.7	11.3	N = 71
Six to ten	14.3	7.1	0.0	64.3	14.3	N = 14
Eleven or more	0.0	7.7	15.4	38.5	38.5	N = 13

Gamma = .11
Gamma excluded stayed, dismissed withdrawn = .53

TABLE 3:41

RELATIONSHIP BETWEEN NUMBER OF PRIOR CHARGES AND DISPOSITION IN MIXED COMMUNITIES

PRIOR RECORD	STAYED DISMISSED, WITHDRAWN	ADJOURNED SINE DIE	SUSPENDED FINE, RESTITUTION	PROBATION	TRANSFER INSTITUTION-ALIZATION COMMITAL TO CAS	
No priors	18.5	11.1	30.6	37.0	2.8	N = 216
One to five	19.8	8.1	24.7	44.2	3.5	N = 86
Six to ten	11.8	11.8	5.9	52.9	17.6	N = 17
Eleven or more	17.6	11.8	35.3	29.4	5.9	N = 17

Gamma = .11
Gamma excluding stayed, dismissed, withdrawn = .18

TABLE 3:42

MULTIPLE REGRESSION OF JUVENILE COURT DISPOSITION ON LEGAL AND SOCIAL VARIABLES

	WINNIPEG, 1979			NON-NATIVE		
	ZERO-ORDER CORRELATION	BETA	b	ZERO-ORDER CORRELATION	BETA	b
Age	-.07	-.04	-.02	.14	.12	.09
Family Status	.06	.03	-.05	.09	.09	.15
Sex	.05	.00	.00	.04	.03	.09
Seriousness	.18	.05	.07	-.06	-.06	-.08
Number of current offences	.30	.25	.18	-.03	.00	.00
Prior record	.17	.11	-.03	.11	.06	.02
	R_2 = .32 R^2 = .10 N = 692			R_2 = .19 R^2 = .04 N = 135		

	NATIVE			MIXED		
	ZERO-ORDER CORRELATION	BETA	b	ZERO-ORDER CORRELATION	BETA	b
Age	-.10	-.14	-.11	-.08	-.07	-.06
Family Status	-.02	-.04	-.06	.01	-.01	-.02
Sex	-.01	-.07	-.17	-.05	-.08	-.25
Seriousness	.10	.06	.11	.08	.02	.03
Number of current offences	.19	.15	.10	.15	.16	.11
Prior record	.24	.25	.08	.05	.07	-.02
	R_2 = .33 R^2 = .11 N = 193			R_2 = .20 R^2 = .04 N = 313		

TABLE 3:43
MULTIPLE REGRESSION OF JUVENILE COURT DISPOSITION (EXCLUDING STAYED, DISMISSED, WITHDRAWN) ON LEGAL AND SOCIAL VARIABLES

	NON-NATIVE			MIXED		
	ZERO-ORDER CORRELATION	BETA	b	ZERO-ORDER CORRELATION	BETA	b
Age	.11	.04	.02	-.15	-.09	-.05
Family status	.02	-.03	-.03	-.01	-.05	-.05
Sex	.14	.10	.21	.04	-.04	-.08
Seriousness	.19	.15	.12	.38	.23	-.25
Number of current offences	.14	.12	.05	.41	.32	.14
Prior record	.27	.25	.05	.10	.12	.03
	R_2 = .37 R^2 = .13 N = 111			R_2 = .49 R^2 = .24 N = 257		

	NATIVE			WINNIPEG		
	ZERO-ORDER CORRELATION	BETA	b	ZERO-ORDER CORRELATION	BETA	b
Age	-.12	-.20	-.10	-.06	.01	.00
Family Status	-.04	-.06	-.06	.11	-.03	-.03
Sex	.08	.02	.03	.14	.03	.07
Seriousness	.20	.10	.12	.35	.19	.23
Number of current offences	.30	.23	.10	.44	.28	.16
Prior record	.30	.28	.06	.39	.29	.07
	R_2 = .45 R^2 = .20 N = 167			R_2 = .55 R^2 = .30 N = 560		

TABLE 3:44

LENGTH OF TIME BETWEEN DATE OF OFFENCE
AND DATE INFORMATION LAID (IN PERCENT) (N = 831)

	NON-NATIVE	NATIVE	MIXED
Up to 1 month	77.9	47.9	64.8
1-2 mos.	8.4	21.2	10.5
2-3 mos.	2.9	10.6	12.0
3-6 mos.	9.8	15.8	8.7
6-12 mos.	1.0	4.0	3.4
Over 1 year	0.0	0.4	0.4
	N = 204	N = 226	N = 401

TABLE 3:45

LENGTH OF TIME BETWEEN DATE INFORMATION LAID AND FIRST APPEARANCE (IN PERCENT) (N = 808)

	NON-NATIVE	NATIVE	MIXED
Up to 1 month	90.0	83.6	87.3
1-2 mos.	6.5	6.5	6.9
2-3 mos.	2.0	5.6	1.8
3-6 mos.	0.5	1.9	2.3
6-12 mos.	0.5	1.9	1.5
Over 1 year	0.5	0.5	0.8
	N = 200	N = 214	N = 394

TABLE 3:46

LENGTH OF TIME BETWEEN DATE OF OFFENCE AND FIRST APPEARANCE (IN PERCENT) (N = 864)

	NON-NATIVE	NATIVE	MIXED
Up to 1 month	62.7	29.6	42.9
1-2 mos.	17.0	22.5	23.2
2-3 mos.	5.1	17.5	11.2
3-6 mos.	12.3	22.5	14.7
6-12 mos.	1.9	7.1	6.4
Over 1 year	1.0	0.8	1.5
	N = 214	N = 240	N = 410

TABLE 3:47

LENGTH OF TIME BETWEEN DATE OF FIRST APPEARANCE AND LAST APPEARANCE (IN PERCENT) (N = 860)

	NON-NATIVE	NATIVE	MIXED
Only 1 appearance	69.3	53.4	41.2
Up to 1 month	8.0	13.4	17.6
1-2 mos.	12.3	11.8	11.7
2-3 mos.	2.4	5.9	10.2
3-6 mos.	5.2	9.6	12.9
6-12 mos.	2.3	4.1	5.5
Over 1 year	0.5	1.6	0.6
	N = 214	N = 240	N = 406

Cramer's V = .22

TABLE 3:48

LENGTH OF TIME BETWEEN DATE OF FIRST APPEARANCE AND LAST APPEARANCE - 1979/1981 WINNIPEG (IN PERCENT) (N = 649)

LENGTH OF TIME	1979 %	1981 %
Only 1 appearance	59.2	24.3
Up to 1 month	8.9	19.4
1-2 months	5.5	23.6
3-6 months	11.2	
6-12 months	6.7	32.7
Over 1 year	0.8	

TABLE 3:49

NUMBER OF HEARINGS AND COMMUNITY TYPE
(IN PERCENT) (N = 860)

NO. OF HEARINGS	NON-NATIVE	NATIVE	MIXED
1	64.0	48.8	35.5
2	18.7	27.5	23.4
3	6.1	10.0	13.8
4	4.7	7.1	9.4
5	1.4	0.8	5.2
6	2.8	2.1	5.2
7	1.9	1.3	1.2
8	0.0	0.8	3.9
More than 8	0.5	1.6	2.3
	N = 214	N = 240	N = 406

Cramer's V = .22

CHAPTER 4

COURT OBSERVATION

As part of the study of northern and rural juvenile courts, hearings were observed in all sites. The observation module used in the national study was adapted and greatly abbreviated for this purpose. Systematic selection of cases could not be done, as resources did not permit extended stays or repeat visits to the rural and northern sites. The cases selected for observation were those which appeared in court on the days when the researcher was at the sites to carry out interviews reported in Chapter 5.

Two hundred and seventy hearings were observed. The number of hearings observed at each site (shown in Table 4:1) were dependent on the length of stay at the site and on the caseload of the court. The presiding judges at these hearings were almost equally divided between Family Division (50.4%) and Criminal Division (49.6%).

The nature of the hearings observed were similar in each type of site (Table 4:2). One of the major differences is that there were fewer adjournments observed in Native and mixed communities. Analysis of type of hearing by individual community shows that in isolated northern Native communities only 6.7 per cent of observed hearings were adjournments supporting the findings of the file study. This suggests that there is greater pressure to settle cases in communities where substantial time delays may occur before the court party returns to convene court.

4.1 Procedures and People Present

As discussed in Chapter 1, facilities and procedures differed substantially from place to place. In most sites, in camera hearings were routinely held for juveniles (Table 4:3). The exceptions to this practice are those sites where a separate juvenile court facility is unavailable and adult courtrooms have to be used. In all sites a separate juvenile docket was used, but because of the nature of the facility it was not possible to provide private hearings for juveniles. This is commonly the case in Native communities, particularly in isolated northern areas (Table 4:4). In many of these communities, there are no dedicated court facilities and both adult and juvenile courts are held in locations such as a school or meeting hall. One other disadvantage of courts in more isolated areas is shown in Table 4:5. Because of the lack of locally-based court officials in remote communities, cases are more frequently set down in Native and mixed sites to allow juveniles to speak to a probation officer or lawyer.

The roles of persons present in court are indicated in Tables 4:6 and 4:7.[1] It should be noted that not all of these persons are involved with the case being observed. The most important differences in this table are those involving lawyers, court communicators and probation workers. The high proportion of Legal Aid lawyers in Native and mixed communities reflects the fact that Legal Aid is sent to many of these communities as part of the court party. The predominance of court communicators in Native communities is due to the different languages

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[1] The most common reason for the absence of a juvenile at a hearing is that a routine matter such as an adjournment date is being discussed and only the juvenile's file is required at the hearing. The other main reason is the failure of the juvenile to appear as requested.

used in these areas. Probation workers are also common in Native communities where other social service personnel are unavailable.

Tables 4:8 and 4:9 show that interpreters were readily available, though they were seldom required. They were available in almost 60 per cent of hearings in Native communities. In northern Native communities where the requirement would be the greatest, interpreters were available in 93.3 per cent of the hearings compared with 34.7 per cent of hearings in southern Native communities. Usually interpreters were present in their formal role as court communicators, although occasionally a local resident was present to serve as an interpreter if requested.

In those cases where the juvenile was present, the juvenile's race was noted. As expected, Table 4:10 shows that all cases in Native communities involved Native juveniles, and almost all cases in non-Native communities involved non-Native youth. Almost three-quarters of the cases in Mixed communities involved Native juveniles. It is difficult to determine if the Native juveniles are overrepresented in mixed communities since the catchment area boundaries for each court site are not stable and the age distribution for Native and non-Native populations at risk are also not known.

4.2 Crown and Defense

In most cases, Crown Attorneys acted as prosecutor (Table 4:11). However, in a substantial proportion of cases in non-Native communities, the court clerk carried out the prosecutor's duties. In 17 per cent of mixed cases, this role was played by a member of the R.C.M.P..[2]

The use of legal counsel is shown in Tables 4:12 and 4:13. Less than half of the juveniles in all communities are represented by counsel with the lowest frequency of representation occurring in non-Native

communities. This reflects the greater availability of Legal Aid in Native and mixed communities. This availability is higher in some sites because Legal Aid lawyers usually travel into isolated communities as part of the court party and are readily accessible to juveniles appearing in these courts. It is also interesting to note the apparent unavailability of private counsel in Native and mixed communities.

Tables 4:14 and 4:15 show that while judges explain that unrepresented juveniles have the right to defence counsel in over 50 per cent of the cases, they rarely advised the juvenile of his or her possible eligibility for Legal Aid. Juveniles in Native communities are less likely to be advised of their right to counsel than those in non-Native and mixed communities. This may reflect the presence of Legal Aid staff who travel with the court party.

4.3 Procedures During Juvenile Court Hearings

Given the nature of the observations, the reader should be somewhat cautious of the conclusions to be drawn concerning court procedures.

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[2]These differences largely reflect procedures followed in two sites--Pine Falls and Flin Flon. In most sites adult and juvenile courts were held on the same day and the Crown Attorney attended both types of court. However, in Flin Flon and Pine Falls, juvenile and adult court were held on different days and no prosecutor was available for juvenile court. In Flin Flon the court clerk acted as prosecutor by reading the charges, a role played by a member of the R.C.M.P. in Pine Falls. In both sites this practice ended following implementation of the Young Offenders Act.

Cases were not followed through from start to finish. For example, when we see in Table 4:16 that jurisdiction was ascertained in a relatively small percentage of cases, it may have been because jurisdiction had been established at a prior hearing rather than judges ignoring this procedural requirement.

4.3.1 Arraignment

A formal arraignment was carried out in approximately half of the observed hearings (Table 4:17). Normally, the information was read by the judge, though in a small number of cases it was read by the court clerk (Table 4:18). Typically, the information was read verbatim (Table 4:19) and was followed by the judge asking the juvenile if she or he understood the charges, especially in Native communities (Table 4:20). Usually they were understood and the judge rarely had to explain them to the juvenile (Table 4:21). There were some small differences in procedures in different types of community, but these are of little substantive importance.

4.3.2 Plea

Overall, a plea was made or changed at less than half of the observed hearings. As shown in Table 4:22, this varied somewhat among the sites with pleas less likely to be observed in Native communities. Pleas were typically formal (Table 4:23) though there were a higher proportion of indicated pleas in mixed communities. Facts were read after a guilty plea in most cases, though again the proportion was lower for mixed communities (Table 4:24). Following a plea of guilty, Pre-disposition Reports were requested more frequently in Native than in

non-Native or mixed courts (Table 4:25). Since Native youth are involved in more serious offences, this may account for the more frequent request for more detailed information in the form of a Pre-disposition Report.

4.3.3 Bail

As shown in Table 4:26, a relatively small number of juveniles were in custody prior to the hearing though the percentage was higher in Native communities. This is probably the result of the more frequent and more serious involvement of Native juveniles. Most of those detained were held in the Manitoba Youth Centre (MYC) in Winnipeg (Table 4:27). The logistical problems of moving juveniles in and out of Winnipeg may explain the low overall rates of detention. For those not in custody the issue of detention was seldom raised during the hearing, though there was more concern with detention in Native and mixed communities where a juvenile did not appear (Table 4:28). An arrest warrant was issued in the majority of these cases (Table 4:29).

4.3.4 Prior Record and Documents

Prior record was mentioned at about one-third of the hearings (Table 4:30). In most cases, where prior record was discussed, reference was made to the fact that a youth did have prior contact with the law, though this varies somewhat by site (Table 4:31). Documents were infrequently presented during observed hearings (Table 4:32). In virtually all cases, documents which were introduced were Pre-disposition Reports.

4.3.5 Adjudication

As shown in Table 4:33, an adjudication was made in about one-third of the observed hearings. This percentage was similar in the various community types.

Not all observed dispositions were preceded by an adjudication. In Table 4:34 it is shown that for every site, there were more dispositions than there were adjudications. In a few cases this was because an adjudication had been made at a prior hearing. However, in most instances no formal adjudication was made. This was particularly the case for the disposition of adjournment sine die under Section 16 of the Juvenile Delinquents Act which normally precedes any formal adjudication. Table 4:35 indicates that there is some variation in the likelihood of parents speaking to dispositions with a higher proportion doing so in non-Native sites. Table 4:36 shows that where a juvenile was represented by defence counsel, counsel spoke to disposition in almost all cases.

Tables 4:37 and 4:38 show that there is variation among sites in the likelihood of specific disposition recommendations being made and in the person making such recommendations. Recommendations were most likely to be made in Native and in mixed communities. Recommendations were more likely to be made by the Crown in mixed communities, by probation officers in non-Native communities and by a combination of key actors in Native communities.

Tables 4:39 and 4:40 show that there are few substantial differences in the likelihood of judges explaining the disposition and with asking if the juvenile understands the disposition.

4.3.6 Nature of Cases Observed

Table 4:41 shows that juveniles in Native communities have fewer single charges before the court and slightly more of them have two or three charges.

As shown in Table 4:42, there was a good deal of similarity in the kinds of cases observed in the three types of sites. Overall, break-and-enters were the most common offences, followed by liquor offences and theft. This pattern was relatively consistent across sites, though liquor offences were the most common type in non-Native communities. Also, there was a relatively high frequency of driving offences in non-Native communities (reflecting the greater use of vehicles) and a high rate of assaults in addition to break and enters in Native and mixed sites. Theft charges were highest in mixed communities.

4.3.7 Dispositions

The dispositions given are shown in Table 4:43. There is considerable variation in dispositions given in the three types of communities. Non-Native communities have the highest proportion of cases adjourned sine die while Native communities use institutionalization and committal to Children's Aid to a greater extent than is the case elsewhere. Non-Native and mixed communities use fines and community based dispositions most often, and courts in mixed communities are most likely to use probation. The differences are not consistent among Native, non-Native or mixed communities, but largely reflect variation across individual sites.

TABLE 4:1

NUMBER OF HEARINGS OBSERVED

AT EACH SITE (N = 270)

Thompson	19
The Pas	13
Flin Flon	30
Grand Rapids	4
Leaf Rapids	3
God's Lake Narrows	12
Norway House	3
Shamattawa	22
Pukatawagan	2
Cross Lake	1
Morden	21
Beausejour	18
Neepawa	24
Dauphin	14
Swan River	7
Roseau River	18
Pine Falls	17
Fisher Branch	9
Sandy Bay	11
Rossburn	9
Wabowden	5
Bloodvein	8

TABLE 4:2

TYPE OF SITE BY NATURE OF OBSERVED HEARING
(IN PERCENT)

		ADJOURN-MENT	ASCERTAIN JURISDICTION	ARRAIGN-MENT	PLEA	TRANS-FER	TRIAL	BAIL	ADJUDI-CATION	DISPOS-ITION	RECONSI-DERATION	ISSUE WARRANT	STRUCK OFF	TOTAL
SITE	Non-Native	28.0	1.1	0.0	2.2	2.2	4.3	1.1	4.3	53.8	1.1	1.1	1.1	N = 93
	Native	22.1	2.6	3.9	2.6	1.3	7.8	5.2	9.1	32.5	2.6	5.2	5.2	N = 77
	Mixed	18.0	3.0	0.0	3.0	0.0	3.0	3.0	11.0	43.0	5.0	11.0	0.0	N = 100

TABLE 4:3

TYPE OF SITE BY IN CAMERA HEARING (IN PERCENT)

		YES	NO	TOTAL	
	Non-Native	100.0	0.0	100%	N = 93
SITE	Native	58.4	41.6	100%	N = 77
	Mixed	83.0	17.0	100%	N = 100

Cramer's V = .43

TABLE 4:4

TYPE OF SITE BY USE OF ADULT COURTROOM (IN PERCENT)

		YES	NO	TOTAL	
	Non-Native	0.0	100.0	100%	N = 93
SITE	Native	62.3	37.0	100%	N = 77
	Mixed	38.0	62.0	100%	N = 100

Cramer's V = .54

TABLE 4:5
TYPE OF SITE BY SET DOWN FOR JUVENILE TO SPEAK WITH PROBATION OFFICER OR LEGAL AID LAWYER (IN PERCENT)

		YES	NO	TOTAL	
	Non-Native	2.4	97.6	100%	N = 84
SITE	Native	12.5	87.5	100%	N = 64
	Mixed	21.3	78.7	100%	N = 75

Cramer's V = .25

TABLE 4:6

TYPE OF SITE BY PHYSICAL APPEARANCE OF JUVENILE (IN PER CENT)

		YES	NO	TOTAL	
	Non-Native	90.3	9.7	100%	N = 93
SITE	Native	83.1	16.9	100%	N = 77
	Mixed	75.0	25.0	100%	N = 100

Cramer's V = .17

TABLE 4:7

TYPE OF SITE BY PERSONS PRESENT (IN PERCENT)

	COURT CLERK	COURT REPORTER	LEGAL AID	PRIVATE DEFENSE	CHILD WELFARE	PROBATION STAFF	PROSECUTOR	PARENT OR PARENTS (OR GUARDIAN)	COURT COMMUNICATOR	PROABTION WORKER	RCMP	LOCAL COURT COMMITTEE	LOCAL POLICE	
Non-Native	100.0	100.0	57.0	61.3	4.3	97.8	67.7	70.9	0.0	0.0	13.0	7.5	5.4	N = 93
Native	100.0	85.7	76.6	9.1	15.6	100.0	100.0	50.0	44.2	39.0	17.0	0.0	0.0	N = 77
Mixed	79.0	71.0	85.0	4.0	2.0	99.0	100.0	59.0	21.0	0.0	6.0	0.0	0.0	N = 100

TABLE 4:8

TYPE OF SITE BY AVAILABILITY OF INTERPRETER
(IN PERCENT)

		YES	NO	
SITE	Non-Native	0.0	100.0	N = 93
	Native	59.7	40.3	N = 77
	Mixed	25.0	75.0	N = 100

TABLE 4:9

TYPE OF SITE BY REQUEST FOR INTERPRETER
(IN PERCENT)

		YES	NO	
SITE	Non-Native	0.0	100.0	N = 93
	Native	2.6	97.4	N = 77
	Mixed	0.0	100.0	N = 100

TABLE 4:10

TYPE OF SITE BY RACE OF JUVENILE (IN PERCENT)

		NATIVE OR METIS	NON-NATIVE	
SITE	Non-Native	7.1	92.9	N = 84
	Native	0.0	100.0	N = 64
	Mixed	73.3	26.7	N = 75

Cramer's V = .79

TABLE 4:11

TYPE OF SITE BY PERSON ACTING AS PROSECUTOR (IN PERCENT)

		CROWN ATTORNEY	RCMP	FEDERAL CROWN	COURT CLERK	
SITE	Non-Native	67.7	0.0	0.0	32.3	N = 93
	Native	98.7	0.0	1.3	0.0	N = 77
	Mixed	83.0	17.0	0.0	0.0	N = 100

TABLE 4:12

TYPE OF SITE BY COUNSEL REPRESENTS JUVENILE (IN PERCENT)

		YES	NO	
SITE	Non-Native	21.5	78.5	N = 93
	Native	44.2	55.8	N = 77
	Mixed	56.0	44.0	N = 100

Cramer's V = .30

TABLE 4:13

TYPE OF SITE BY TYPE OF COUNSEL (IN PERCENT)

		LEGAL AID	PRIVATE COUNSEL	
SITE	Non-Native	38.9	61.1	N = 18
	Native	82.4	17.6	N = 34
	Mixed	91.1	8.9	N = 56

Cramer's V = .46

TABLE 4:14

TYPE OF SITE BY JUDGES' EXPLANATION OF RIGHT TO COUNSEL (IN PERCENT)

		YES	NO	
SITE	Non-Native	65.6	34.4	N = 61
	Native	19.2	80.8	N = 26
	Mixed	66.7	33.3	N = 24

Cramer's V = .40

TABLE 4:15

TYPE OF SITE BY JUDGE'S EXPLANATION OF ELIGIBILITY OF LEGAL AID (IN PERCENT)

		YES	NO	
SITE	Non-Native	3.3	96.7	N = 61
	Native	3.8	96.2	N = 26
	Mixed	0.0	100.0	N = 24

Cramer's V = .09

TABLE 4:16

TYPE OF SITE BY WHETHER JURISDICTION DISCUSSED (IN PERCENT)

		YES	NO	
SITE	Non-Native	31.2	68.8	N = 93
	Native	31.2	68.8	N = 77
	Mixed	29.0	71.0	N = 100

Cramer's V = .02

TABLE 4:17

TYPE OF SITE BY ARRAIGNMENT (IN PERCENT)

		YES	NO	
SITE	Non-Native	49.5	50.5	N = 93
	Native	37.7	62.3	N = 77
	Mixed	50.0	50.0	N = 100

Cramer's V = .11

TABLE 4:18

TYPE OF SITE BY PERSON READING THE INFORMATION IN THE ARRAIGNMENT (IN PERCENT)

		JUDGE	CLERK	
SITE	Non-Native	97.8	2.2	N = 46
	Native	94.4	5.6	N = 18
	Mixed	90.5	9.5	N = 42

Cramer's V = .14

TABLE 4:19

TYPE OF SITE BY MANNER IN WHICH INFORMATION READ (IN PERCENT)

		VERBATIM	PARAPHRASED	
SITE	Non-Native	71.7	28.3	N = 46
	Native	83.3	16.7	N = 18
	Mixed	52.4	47.6	N = 42

Cramer's V = .25

TABLE 4:20

TYPE OF SITE BY WHETHER OR NOT JUDGE ASKS JUVENILE IF HE/SHE UNDERSTOOD CHARGES (IN PERCENT)

		YES	NO	
SITE	Non-Native	34.8	65.2	N = 46
	Native	61.1	38.9	N = 18
	Mixed	50.0	50.0	N = 42

Cramer's V = .20

TABLE 4:21

TYPE OF SITE BY WHETHER JUDGE EXPLAINS CHARGES TO JUVENILE (IN PERCENT)

		YES	NO	
SITE	Non-Native	8.7	91.3	N = 46
	Native	5.6	94.4	N = 18
	Mixed	11.9	88.1	N = 42

Cramer's V = .08

TABLE 4:22

TYPE OF SITE BY WHETHER A PLEA WAS MADE OR CHANGED AT OBSERVED HEARING (IN PERCENT)

		YES	NO	
SITE	Non-Native	51.6	48.4	N = 93
	Native	31.2	68.8	N = 77
	Mixed	47.0	53.0	N = 100

Cramer's = .17

TABLE 4:23

TYPE OF SITE BY TYPE OF PLEA (IN PERCENT)

		FORMAL	INDICATED	CHANGED	
SITE	Non-Native	95.9	4.1	0.0	N = 49
	Native	91.7	8.3	0.0	N = 24
	Mixed	80.9	17.0	2.1	N = 47

Cramer's V = .16

TABLE 4:24

TYPE OF SITE BY WHETHER FACTS READ AFTER GUILTY PLEA (IN PERCENT)

		YES, ALL CHARGES	YES, SOME CHARGES	NO	
SITE	Non-Native	88.6	2.3	9.1	N = 44
	Native	72.2	5.6	22.3	N = 18
	Mixed	67.4	10.9	21.7	N = 46

Cramer's V = .17

TABLE 4:25

TYPE OF PLEA BY REQUEST FOR PRE-DISPOSITION REPORT (IN PERCENT)

		YES	NO	
SITE	Non-Native	13.3	86.7	N = 45
	Native	33.3	66.7	N = 18
	Mixed	17.4	82.6	N = 46

Cramer's V = .18

TABLE 4:26

TYPE OF SITE BY REVIEW OF CUSTODY AT OBSERVED HEARING

		YES	NO	
SITE	Non-Native	3.2	96.8	N = 93
	Native	18.2	81.8	N = 77
	Mixed	6.0	94.0	N = 100

Cramer's V = .22

TABLE 4:27

TYPE OF SITE BY PLACE OF DETENTION
(IN PERCENT)

		LOCAL FACILITY	MYC	HEADINGLEY	AGASSIZ	
SITE	Non-Native	0.0	4	20.0	0.0	N = 5
	Native	7.1	85.7	0.0	7.1	N = 14
	Mixed	66.7	33.3	0.0	0.0	N = 6

TABLE 4:28

TYPE OF SITE BY DISCUSSION OF DETENTION FOR
JUVENILES NOT IN CUSTODY (IN PERCENT)

		YES	NO	
SITE	Non-Native	2.3	97.7	N = 88
	Native	14.3	85.7	N = 63
	Mixed	16.0	84.0	N = 94

Cramer's V = .20

TABLE 4:29

TYPE OF SITE BY WHETHER WARRANT ISSUED FOR NON-APPEARANCE OF JUVENILE (IN PERCENT)

		YES	NO	
SITE	Non-Native	50.0	50.0	N = 2
	Native	80.0	20.0	N = 5
	Mixed	91.7	8.3	N = 12

Cramer's V = .35

TABLE 4:30

TYPE OF SITE BY MENTION OF PRIOR RECORD AT OBSERVED HEARING (IN PERCENT)

		YES	NO	
SITE	Non-Native	28.0	72.0	N = 93
	Native	28.6	71.4	N = 77
	Mixed	41.0	59.0	N = 100

Cramer's V = .13

TABLE 4:31

TYPE OF SITE BY NATURE OF PRIOR RECORD DISCUSSED (IN PERCENT)-

		NO PRIOR RECORD	PRIOR RECORD	
SITE	Non-Native	53.8	46.2	N = 26
	Native	31.8	68.2	N = 22
	Mixed	46.3	53.7	N = 41

Cramer's V = .16

TABLE 4:32

TYPE OF SITE BY INTRODUCTION OF DOCUMENTS AT OBSERVED HEARING (IN PERCENT)

		YES	NO	
SITE	Non-Native	4.3	95.7	N = 93
	Native	16.9	83.1	N = 77
	Mixed	8.0	92.0	N = 100

Cramer's V = .17

TABLE 4:33

TYPE OF SITE BY WHETHER AN ADJUDICATION MADE AT OBSERVED HEARING (IN PERCENT)

		YES	NO	
SITE	Non-Native	38.7	61.3	N = 93
	Native	26.0	74.0	N = 77
	Mixed	32.0	68.0	N = 100

Cramer's V = .11

TABLE 4:34

TYPE OF SITE BY WHETHER CASE DISPOSED OF AT OBSERVED HEARING (IN PERCENT)

		YES	NO	
SITE	Non-Native	52.7	47.3	N = 93
	Native	32.5	67.5	N = 77
	Mixed	43.0	57.0	N = 100

Cramer's V = .16

TABLE 4:35

TYPE OF SITE BY WHETHER PARENT SPOKE TO DISPOSITION AT OBSERVED HEARING (IN PERCENT)

		YES	NO	
SITE	Non-Native	38.1	61.9	N = 42
	Native	25.0	75.0	N = 12
	Mixed	23.8	76.2	N = 42

Cramer's V = .15

TABLE 4:36

TYPE OF SITE BY WHETHER LAWYER SPOKE TO DISPOSITION AT OBSERVED HEARING (IN PERCENT)

		YES	NO	
SITE	Non-Native	80.0	20.0	N = 5
	Native	92.3	7.7	N = 13
	Mixed	96.2	3.8	N = 26

Cramer's V = .20

TABLE 4:37

TYPE OF SITE BY RECOMMENDATION FOR DISPOSITION AT OBSERVED HEARING (IN PERCENT)

		YES	NO	
SITE	Non-Native	30.0	70.0	N = 50
	Native	81.5	18.5	N = 27
	Mixed	82.6	17.4	N = 46

Cramer's V = .53

TABLE 4:38

TYPE OF SITE BY PERSON MAKING DISPOSITION RECOMMENDATION (IN PERCENT)

		CROWN	DEFENSE	PROBATION	COMBINATION	
SITE	Non-Native	6.7	13.3	66.7	13.4	N = 1
	Native	18.2	4.5	18.2	59.0	N = 2
	Mixed	34.2	15.8	21.1	29.0	N = 3

Cramer's V = .38

TABLE 4:39

TYPE OF SITE BY WHETHER JUDGE EXPLAINED DISPOSITION TO JUVENILE (IN PERCENT)

		YES	NO	
SITE	Non-Native	32.6	67.4	N = 46
	Native	36.4	63.6	N = 22
	Mixed	48.8	51.2	N = 41

Cramer's V = .15

TABLE 4:40

TYPE OF SITE BY WHETHER JUDGE ASKS IF JUVENILE UNDERSTANDS DISPOSITION (IN PERCENT)

		YES	NO	
SITE	Non-Native	6.5	93.5	N = 46
	Native	13.6	86.4	N = 22
	Mixed	12.2	87.8	N = 41

Cramer's V = .10

TABLE 4:41

TYPE OF SITE BY NUMBER OF CHARGES BEING DEALT WITH AT OBSERVED HEARING (IN PERCENT)

SITE	ONE	TWO	THREE	FOUR	FIVE OR OR MORE	
Non-Native	46.2	26.9	9.7	7.5	9.8	N = 93
Native	39.0	31.2	14.3	5.2	10.4	N = 77
Mixed	54.0	24.0	8.0	3.0	11.0	N = 100

Cramer's V = .24

TABLE 4:42

TYPE OF SITE BY MOST COMMON OFFENCES--MOST SERIOUS CHARGE (IN PERCENT)

SITE	BREAK AND ENTER	LIQUOR OFFENCES	THEFT OVER $200	THEFT UNDER $200	MINOR DRIVING OFFENCES	COMMON ASSAULT	WEAPONS OFFENCES	WILFULL DAMAGE	SERIOUS DRIVING OFFENCES	OTHER
Non-Native	12.9	23.7	8.6	7.5	18.3	2.2	8.6	2.2	8.6	7.4
Native	33.8	11.7	3.9	3.9	1.3	14.3	9.1	9.1	1.3	5.1
Mixed	29.0	8.0	13.0	17.0	4.0	9.0	3.0	6.0	3.0	8.0
For All Sites	24.8	14.4	10.7	10.0	8.1	8.1	6.7	5.6	4.4	7.8

TABLE 4:43

TYPE OF SITE BY DISPOSITION (IN PERCENT)

SITE	ADJOURNED SINE DIE	STAY	TRANSFER TO ADULT COURT	INSTITUTIONAL-ZATION COMMITAL TO CAS	PROBATION	FINE, RESTITUTION, COMMUNITY WORK ORDER	
Non-Native	25.5	2.0	2.0	2.0	13.8	55.1	N = 51
Native	11.1	3.7	3.7	18.5	22.2	40.7	N = 27
Mixed	15.6	0.0	0.0	2.2	35.5	46.5	N = 45
All Sites	18.7	1.6	1.6	5.7	23.5	48.7	

CHAPTER 5

COMMUNITY AND KEY ACTOR PERCEPTIONS OF JUVENILE JUSTICE

Exploratory interviews were conducted with key actors involved in the delivery of juvenile circuit court in the hinterland. We also conducted interviews with community members in each of the sites included in this study. The more detailed results of these interviews are reported in Appendix C to this report and are grouped as non-Native, Native and key actor respondent types. Greater detail is provided in the Appendix and many of the more idiosyncratic issues are described because they provide the reader with a greater appreciation of the difficulties involved in providing circuit court services that are satisfactory to the community. The purpose of this chapter is to highlight some of the central systemic issues which were identified by the respondents.

Several words of caution are in order at the outset of this chapter. We are much more confident in the validity and reliability of the key actor perceptions than those offered by community respondents. The key actor group is smaller, more centrally located, and they attended several of our court sites. Because of this factor, we were able to talk to most of them and know that their opinions are representative of this group of respondents. We are also more able to assess the level of rapport that we established with this group. We are less certain of the representativeness of the perceptions of residents in communities. In most instances, we only visited the community once at the time that we attended court. Interviews were conducted with persons who were involved with court related activities or who were involved with juveniles in their community. However, we cannot be certain that

we have managed to reproduce the range of opinion to be found in these communities and whether we managed to establish the rapport necessary to have fruitful interviews. As such these community interviews can only be considered as a preliminary undertaking.

The reader may expect us to compare and contrast Native, non-Native and mixed communities. Given the constraints of this research such a comparison is not possible. Much more time would be required in Native and non-Native communities before an authoritative account of the role of juvenile justice in these sites could be outlined. It would be even more difficult to discuss the role of the court in mixed communities. In some mixed sites Native and non-Native communities are themselves separate but both types are included in the court's catchment area. Other sites include cases from communities which have Native, non-Native and Metis communities adjacent to each other. The community dynamics of many of these sites are very complex, and could not be understood in a short visit.

The data for this analysis was gathered in 157 interviews (see Appendix A for a breakdown on types). Detailed interview guides were prepared for this purpose and they appear as Appendices D, E, and F of this report. While the range of questioning was rather broad, the following four areas emerged as the most far reaching and systematic in nature: (1) issues surrounding the court party, (2) court dispositions, (3) community input into the court, and (4) detention facilities.

5.1 The Court Party

All respondents stressed the need for a court party that was knowledgeable about community history, community conditions, and Native

and northern culture. The key actors accepted the financial restraints of the hinterland circuit and stressed the need to have an experienced court party to regularly service on the same circuit in order to increase community awareness. To further strengthen the court party system, some key actors believed that the role of the limited jurisdiction magistrate might be enhanced so that some serious matters could be dealt with as they arose. In addition, most key actors were of the opinion that the use of probation workers, voluntary probation officers or para-legals would help strengthen the ability of the circuit court to operate with the benefit of more complete information. They also believed that such a person residing in the community would create a continuous presence for the court party which would increase the range of options available to the court.

For the most part, non-Native community respondents were satisfied with the circuit court arrangement. This is understandable as many of these communities have regular and continuous access to various social services. They did express an interest in maintaining judges who had circuit court experience and who regularly came to their community. They felt that Winnipeg judges often were not sensitive enough to their community and that they didn't have the knowledge of local conditions to make appropriate dispositions.

The Native respondents were much more critical of the circuit court system. Again, this is to be expected as these communities are physically removed from the agents of the court system except on the few days a year when the court party flies into their community. The majority of Native communities expressed suspicion about the fact that the judge, Crown attorney and Legal Aid lawyer all arrived on the same plane. They

were concerned that cases had already been decided before the plane landed. In addition, many respondents thought that the court party did not know enough about the community, the offender, the circumstances of the offence (from a source other than the police report), or Native culture. They felt that the judge should talk more to local Band Council and Chief as well as generally become more familiar with their community. Some expressed the opinion that the judge should also be a Native. In some instances Native respondents thought that the judge should be a resident of their area so as to increase their general level of understanding and sensitivity to local conditions.

On the whole it is fair to say that all respondents saw room for improvement on the circuit court. The linkage of this portable bureaucracy to the community where the offences are occurring is still too loose and the strengthening of this connection requires additional attention.

An additional area of concern surrounding the resourcefulness of the court party has to do with the juveniles' understanding of court proceedings. This problem was seen to be more serious in Native communities than in non-Native communities. Key actors believed that interpreters should be used more often. Based on our findings of court observation (Tables 4:8, 4:9), interpreters are often available but seldom used in Native and mixed court sites. Thus we interpret the key actors to mean both greater availability and greater use of interpreters. Key actors also suggested that less formal language be used in the courtroom. We saw in Table 4:19 that the information was read verbatim in the vast majority of cases. Although the judges asked if the juvenile understood the charges (Table 4:20), in most cases

involving Native or mixed youth, there is no way of knowing the extent to which juveniles really understand court proceedings. The key actors' perceptions were that they do not fully understand in too many cases.

Respondents from non-Native communities for the most part did not view juvenile understanding of the court process to be an issue but it was a matter of great concern among the respondents of Native communities. This is not unexpected due to both the language differences and the greater unavailability of court personnel in Native communities. Native respondents suggested that Native P.W.s or V.P.O.s would help in this regard. First they would be regularly available to explain the procedure, language and consequences to the juvenile, and in addition they would be available to translate on the day of court. Being more approachable for native youth, they would be better able to enhance the Native juvenile's understanding of what is happening to him or her. This is an important issue in our view because if the court process is to have an educative affect, the proceedings must be understandable. The issues associated with the plain-English movement are clearly operative in this circumstance.

There was concern expressed from all respondent groups with respect to the availability of Legal Aid counsel. All groups were of the opinion that legal aid arrangements are not adequate. Key actors thought that duty counsel was too busy on the day of court to adequately gather all of the necessary information. It was argued, especially by respondents from communities where Legal Aid did not have a permanent office, that there was too little opportunity for contact outside of court to discuss matters. Some respondents felt that Legal Aid should come in a day earlier but others argued that pre-court clinics have been

less than successful. Perhaps the most promising suggestion was that two Legal Aid lawyers be included in court parties when the size of the docket warranted it. This is an important matter since the quality of justice and the preparation of an adequate defense are directly affected by the quality of information, completeness of information, and the quality of the thought that goes into the construction of a position by the defense counsel. If current practice is compressing time for the defense function to the extent that it cannot carefully and methodically gather and process the necessary information, then the validity of such a practice requires a review.

Respondents from communities which did not have a probation officer regularly available in the community, were concerned about this non-availability. The P.O. is seen to be a very important court actor. The presence or absence of a P.O. affects the level of information available concerning the juvenile and family as the P.O. provides information concerning the offence to supplement the police report. The P.O. directly affects the range of dispositions available to the court both by being able to supervise compliance, and by being physically present to arrange and monitor community based dispositions. All communities recognize this service and where the community is too small to justify a full-time P.O. and does not have a P.W. or V.P.O., residents consider this to be a major weakness in the system. This corresponds with the concerns expressed by several key actors.

There are, then, several possible areas of discountenance with respect to the court party. Some of the suggestions made by our respondents such as ensuring that there are probation workers or

voluntary probation officers in each community, might be implemented at little extra cost.

5.2 Dispositions

In most instances, the community respondents were satisfied with the way in which juvenile cases were handled. Communities members expressed concern about dispositions only in particularly serious or well-publicized cases. Typically, the handling of serious offences was seen as too lenient. Native respondents also commented that supervision of these more serious offenders was a problem.

Approximately 50% of the respondents in each group of interviewees judged the handling of cases as being too lenient. Thus, while the general community may be satisfied with the handling of offences, many of those more closely involved with the juvenile scene thought that the $25.00 fine was used entirely too often with very little effect. The key actor group also thought that the use of adjournment sine die dispositions was too frequent and that it encouraged juveniles to not treat the court seriously. Key actors also held the opinion that the victims of crimes were not receiving adequate compensation for their losses. Respondents amongst key actors often felt that judges were reluctant to treat matters as they ought to be for fear of filling the institutions.

There was basic agreement concerning the most troublesome offences. All groups mentioned willful damage, and liquor-related offences such as impaired driving. Native and key actor respondents also listed assaults as a common problem, and the key actors also felt that break and enters were frequent. These perceptions at least correspond to our file based data.

Respondents in all groups believe that family circumstances, economic situation and offender's culture should play a prominent role in arriving at a disposition. Most respondents felt that family problems, alcohol abuse and marital breakdown were significant factors in the causation of juvenile offences. They also thought that many of the fines handed down were inappropriate given the unemployment and welfare circumstances of many offenders, especially Native offenders. Although the Fine Option Program was of some assistance, not all communities were participating in it.

Key actor and Native respondents expressed concern at the limited range of dispositional alternatives available in Reserve situations. This is a result of the low level of resource development in many Reserves which we discussed when developing our community typology. There was no corresponding concern over the level of resources among the non-Native respondents. While all respondents were aware that there were fewer resources in their community than in a larger urban centre, most non-Native respondents felt that local resources were adequate.

All groups of respondents looked favourably at the development and use of community committees and community based dispositions. Most of the non-Native communities had functioning programs but some respondents stated a concern about finding the necessary community placements. Native and key actor respondents stated that the community service order and other community based dispositions worked well when there was a sponsor of the program who was prepared to undertake the supervision required. Thus when the Band Council, NADAP worker, or V.P.O. was available, this type of disposition was possible. Key actors felt such programs were desirable and saw less recidivism from such dispositions.

But key actor and Native respondents were of the opinion that Native communities were less able to offer such participation and as a result Native offenders were often disadvantaged by the narrower range of options open to the court.

Non-Native respondents generally believed that probation officers did a good job of supervising dispositions even though they realized that Probation Services staffing levels were inadequate. Key actor and Native respondents agreed that in situations where probation supervision was possible it created a viable range of options to the court. However, in all too many cases regular supervision was not possible in Native communities because of their remoteness from Probation offices. Such concerns further underscore the matter already discussed about the need for a continuing physical link to the court party in the way of the development of a V.P.O. or para-legal position in communities where Probation is not continuously present. The present system restricts the range of sentencing options for Native offenders to the disadvantage of them and their communities.

Native respondents also felt that judges seemed reluctant to remove juveniles who were getting into serious trouble on northern Reserves because of the hardships this would create for the juvenile. This being the dilemma some respondents felt that they would have to wait until the juvenile's behaviour got bad enough for the judge to finally remove the youth. They feared that this decreased the chances of this juvenile ever becoming an integral member of their community. They thought that if more special programs were available that the judges would have a wider range of choices for meaningful intervention than is now the case. This is significant when one considers over 50% of the Native

respondents view the purpose of court to be treatment. The majority of key actor and non-Native respondents viewed the primary purpose of court to be deterrence.

Respondents from all groups felt that the court process was too slow. Many of them thought that it was much slower in the Native communities that held court infrequently. This is an interesting perception since the data presented in Tables 3:47 and 3:49 do not show such a discrepancy. In fact cases were handled in hinterland sites more quickly and with a smaller number of hearings than in Winnipeg. Having said this, it may well be the argument that matters are not brought to a close as quickly as they could be if limited jurisdiction magistrates were impowered to deal with a wider range of offences.

In summary it seems fair to say that there is concern that current arrangements do not allow the judge as full a range of dispositions as might be desirable, especially in Reserve communities which do not have ready access to human and social resources. Some of the remedies suggested earlier may help alleviate many of these problems.

5.3 Community Input into the Court

It is often suggested that hinterland court related resources would be greatly enhanced with the fostering of increased community involvement in such programming as community court committees. When we discussed this during the interviews, it became clear that most community members have very little interest in juvenile court unless a member of their family is directly involved. For the most part, they do not know what is going on in juvenile court and do not exert any direct pressure on the court. The only exception to this general pattern is the active involvement that Chiefs and Band Councils take in a limited number of

cases. While Chiefs and Band Councils sometimes contact the Crown or judges directly, the only other type of influence directed to the court occurs via the P.O. when various parties might suggest what should be done in dealing with a particular case.

In the more accessible communities there have been efforts by the R.C.M.P. and Probation Services to stimulate community awareness and crime prevention. In the more remote communities this type of community participation cannot be actively fostered to any extent under current arrangements and while there is active interest in many non-Native communities, most Native communities do not have much volunteer activity. The most notable exception to this is Roseau River which has had a successful community court committee for juveniles for several years. While other Native communities have attempted to set up such committees, they have been unable to maintain interest. Respondents in all groups had favourable opinions about such committees and their value. Several Native respondents cited the tensions between Treaty and Non-Treaty Indians as being a principal obstacle to the creation of a community committee that would really be operative. Key actor respondents agreed that there were serious obstacles to be overcome if the Reserve communities were to avail themselves of such programs. The key actor respondents were most insistent that the range of sentencing options was greatly enriched by community participation. Their work was made easier and more effective because a whole range of alternative measures such as victim-offender mediation, community service orders, restitution and other community based dispositions are made available by such community involvement. It also increased the ability of the court to hand down dispositions which involve some form of supervision, as the

community committee can monitor compliance. They also argued that such committees also bring to light relevant information for a court party which is less familiar with the individual and the community allowing additional information for individualized sentencing.

The willingness to act in a voluntary capacity is quite different in Native and non-Native communities. While non-Native communities have a good deal of volunteer spirit to call upon for supervising sports, participating on committees and the like, the Native community often does not have this resource. Both key actors and Native respondents argued that Natives would not volunteer and would expect to be paid for their participation. Thus if the system wishes to develop more resources in such communities, financial rewards appear to be a requirement. While most respondents had very positive attitudes about increased involvement of the community in the court process, they made it quite clear that this will be a difficult undertaking in Native communities.

5.4 Detention Facilities

Respondents in all groups were of the opinion that detention is an extreme step that should only be used in serious circumstances. There was a high level of agreement that the following criteria should be used: seriousness of offence, repeat offender, and an unstable family environment. The key actor group also placed some importance on the possible danger a juvenile might be to self or others and also the likelihood the juvenile would appear in court.

There were mixed feelings about the effect of detention on young offenders. While all groups mentioned that it acted as a deterrent and

that it had some ability to make juveniles accountable for their behaviour, all groups of respondents had concerns about the negative effects of incarceration. All groups were concerned about removing juveniles from their familiar environment and families. This was especially important in the northern sector of the province where long term detention meant removal to Manitoba Youth Centre (MYC) in Winnipeg. All respondent groups also felt that many juveniles were learning new criminal techniques while in MYC is widely perceived as a crime school. The Native and key actor respondents also stressed the problem of culture shock that many Natives experience when they are brought to MYC. Several key actor respondents also questioned whether detention had a deterrent effect on many Native youth who found their trip to Winnipeg and their stay in MYC to be a vacation from the hardships of their life circumstances.

Respondents in northern communities were concerned about the absence of a detention facility in the North. Respondents in all groups felt that a facility should be built in either Thompson or The Pas. There are no holding facilities in northern Manitoba that are suitable for holding a juvenile beyond 24 hours. All groups stressed the point that a detention facility in the North would make it more possible for families to visit their children by reducing travel costs. Key actors emphasized that a detention facility in the North would make it easier for defence counsel and probation officers to be in contact with these juveniles who would otherwise be detained in Winnipeg and flown to their community on the day of court. While the building and operation of such a facility would be an expensive undertaking, key actors emphasized that the current practice carries with it heavy travel costs. Native

respondents argued that their youth would experience less culture shock if they were detained in a northern community. This is an important issue for Natives as Table 3:10 shows that a higher proportion of juveniles from Native and mixed communities are subjected to detention.

Many respondents, however, still recognized that the existence of a detention facility in the North would still require the movement of many juveniles by air from their community. Most hinterland communities have juvenile criminal activity levels that are too small to justify the operation of their own facility. As an alternative, all groups of respondents suggested the increased use of group homes, foster homes, receiving homes, and/or half-way houses as an alternative to an institutional detention facility. The development of secure custody arrangements in each community would allow many youths to stay in their community; it would allow for increased supervision, and it would not remove them from their school or work activity. Some key actors also argued that well-trained V.P.O.s could undertake some of the supervision that may make it possible for a juvenile to remain at home.

5.5 Summary

The interviews that were conducted as part of this research have examined some areas of real concern about current practice in juvenile justice. This chapter has focused on the issues that are the most important in the sense that constructive change appears to be possible surrounding each topic. The increased training and use of V.P.O.s would certainly help compensate for some of the shortcomings of the circuit court process. The increased emphasis which could be placed on local community committees would further enhance the range of alternatives to

sentencing for judges. The whole issue of detention suggests that there may well be cost-effective non-institutional alternatives which may be developed for difficult juveniles in conflict with the law.

CHAPTER 6

SUMMARY AND DISCUSSION

The purpose this research was to study the juvenile court system that serves the hinterland communities in Manitoba. We sought to describe this delivery process in terms of its structure, its ability to provide quality justice under difficult circumstances, and to identify the problem areas in the system. We wish to summarize in this chapter the major findings. This chapter is intended to prepare the way for the discussion of policy implications and future research directions in the final two chapters.

Manitoba is a large province consisting of many small communities. There are a small number of moderate size communities situated primarily in the south and most of them are close to the metropolitan centre of Winnipeg. Government services near Winnipeg are mounted by a circuit mechanism originating from the main offices in Winnipeg. For communities of moderate size which are too distant for this service network, satellite offices for government services are established in sites such as Beausejour, Brandon, Dauphin, The Pas and Thompson. These satellite offices provide a circuit service for the smaller communities in the various districts of the province. The financial realities make this the only cost effective way to deliver a centralized service. Accessibiity to government services varies directly with geographic location; communities which are most removed from Winnipeg or other large communities with government service centres have only intermittent access to resources. The delivery of juvenile justice reflects this reality.

The justice system is connected to the life of the community directly through the police function, and intermittently through the court process. Our principal concern in this study is the operation of the circuit court. We wish to examine this system in order to describe its strengths and weaknesses and where possible to suggest ways to improve the delivery of government service in the far reaches of our society.

6.1 Formality, Speed, Facilities, Consistency in Decision-Making

Key actors working on the circuit court are careful to ensure that court proceedings are conducted with an air of formality under all circumstances. There was an adherence to the procedural requirements of law in the court's handling of cases and judges ensured that a serious decorum was maintained even when court facilities were limited.

For the most part, the facilities available in communities were adequate for the purpose of conducting court proceedings. Some of the Native communities did not have facilities which were suited to the need for space, quiet, in camera proceedings, privacy for accused and lawyer, waiting room and the like, but for the most part key actors could conduct their business in adequate surroundings.

The circuit court was able to process cases as quickly as the Winnipeg juvenile court. This is significant when one considers that some court sites only hold court three or four times a year. There is a desire to move matters along more quickly when an adjournment may lead to a several-month delay before the case can be again considered. This may account for the fact that the hinterland circuit disposed of cases even more quickly than the Winnipeg court in 1981. While it is commonly

perceived that delays of justice are most serious in the hinterland, we found the opposite to be true in 1981.

In court decision-making we found consistency across all sites. While there are some differences, judges generally focused on the legal variables when assessing cases. Factors such as seriousness of offence, number of charges before the court, and the presence of prior record were the variables which best predicted outcome. We also found that there were no inconsistencies in seriousness of offence and severity-of disposition. While it is often perceived that Natives receive different treatment by courts, we detected no difference. However, it could be argued that such a uniform decision-making process is inadequate as it does not consider the individual circumstances and needs of the offender when arriving at a disposition. Proponents of rehabilitation and individualized justice may be critical of the court process because of its primary reliance on legal variables. We are unable to assess the extent to which extra-legal variables are used in the decision-making process of hinterland courts due to the incompleteness of file-based data.

The uniformity in the handling of cases across the province is an important finding. The dedication of key actors (ie. police, judges, crown, legal aid, probation) to perform a high level of service in very difficult circumstances is a primary factor in achieving uniformity of service. While most of what follows in this chapter is concerned with the problems and limitations of this system, this accomplishment should not be underrated. The dedication of the court party has a significant impact on the way service is provided, even in the far reaches of the North.

6.2 The Structural Problems of Circuit Court Delivery

Perhaps the most important problem associated with the use of the circuit delivery system is the amount of work which needs to be compressed into a few hours in communities which do not have resident Crown, Legal Aid and Probation personnel. The court party often arrives from different home communities to the site where court is being held. Much of the work that needs to be undertaken to process a case cannot be started until the court party arrives. While Probation staff come to these communities more frequently, the judge, Crown and Legal Aid personnel usually come on the day of court. Problems are greatest for the Legal Aid staff who are responsible for interviewing the accused, explaining options and the court process, making recommendations, and attempting to corroborate the facts as presented in the police report. When a docket is sizeable, or when weather or other factors limit the time available, tasks must be compressed into a small amount of time. A similar problem is experienced by the Crown. There can be no doubt that there is a loss of quality at this point. In some instances, the basic nature of the case and the approach that will be used to handle it must be decided in only a few minutes. There is a very real risk that the key actors could slip into selective viewing and rely on processing stereotypes since they don't have the time to consider a case thoroughly.

The lack of detention facilities in smaller communities creates serious problems for a circuit delivery system. There is no way to create an institutional detention facility that would be accessible to parents, family and friends of accused in most sites. Even a facility in the North would not solve this problem, although it would make it

possible for laywers to visit clients more frequently, and it would help reduce the culture shock that some juveniles experience when they are sent from small towns or reserves to the Manitoba Youth Centre in Winnipeg. While this is an important issue in northern communities, there is no easy solution to it. In large part it is a problem created by the very structure of a circuit delivery system.

Another finding is the lack of experienced legal counsel. For over one-half of the observed cases, there was no assigned lawyer as the only legal defense available in many communities is the Legal Aid representative who is part of the court party. Without private counsel or duty counsel secured on a legal aid certificate, the accused must rely on the advice of duty counsel who is operating under less than desirable conditions due to the limited time s/he can spend in the community. The other problem with Legal Aid duty counsel is that they are often young and inexperienced which serves to further aggravate the time problem. Court clinics have been held the day before court in some of the more accessible communities, but this is not possible in the more remote sites. This structural problem will make it difficult to live up to the requirements of the Young Offender's Act for adequate legal representation.

Closely associated with the issue of legal representation is the problem of juvenile comprehension of what is happening to him or her in the court process. It has been suggested that juveniles, and especially Native youth, do not really understand what is happening to them in court even though they may not ask questions or indicate that they don't understand. Part of this problem stems from the difficulty of translating one cultural viewpoint into that of another. But the matter goes

beyond the problem of interpretation. Smith-Gadacz studied juvenile comprehension in the Winnipeg Juvenile Court during 1981 and found that lack of understanding was a serious problem for youth who had a P.O. or defense counsel, and in many instances both key actors, explaining the court proceeding. As there is a movement away from the involvement of P.O.s with juveniles prior to a finding of guilt, the onus for explaining the court process to the juvenile falls on the Legal Aid duty counsel. As counsel has little time, this additional responsibility is cause for concern. This explanation is crucial if the system wishes the juvenile to be held accountable for his or her actions and if the court is to be educative as was intended by those who drafted the Young Offenders Act. These deficiencies are structurally generated and will be very difficult to eliminate.

6.3 Nature of the Linkage of Court Party to Community

One of the basic findings of this research is the relationship between remoteness of communities and the quality and availability of service. Hinterland communities often find it difficult to get access to services and the more a community is geographically isolated, the greater the problems of access. Those communities which do not have key actors residing in or near their community have weak links to the juvenile justice system. Most communities now have resident police services but many of the communities under study did not have continuous access to Probation, Legal Aid, Crown or counselling services. The Native Reserves are often the most seriously restricted in their access to court and other services. It is important to remember that a high proportion of Native offenders are being placed on probation and

supervision is structurally impossible. In Native and mixed communities, juveniles are involved in repeat offences, more serious offences and more frequently have larger numbers of charges before the court. Larger proportions of Native juveniles end up being detained, transferred to adult court and institutionalized. There is no question that many of these youth could benefit from human services that are available in many Non-Native communities.

The court requires accurate and complete information on the juvenile, and his or her family. It also needs information concerning the victim's and the communities' attitude toward the offending juvenile(s). This information is essential for a fair representation of the facts, and for the development of an intervention strategy which meets the needs of the juvenile. Key actors have repeatedly emphasized the value of Pre-Disposition Reports and yet the working conditions of P.O.s are very difficult in remote communities where contact is often sporadic and limited. Our regression analysis shows that extra-legal variables explain little concerning court decision-making. It is entirely possible that current circuit practice makes it difficult to gather and present such background information and hence greater reliance is placed on legal information which is readily available.

In a number of communities there is little value in the court assigning certain types of dispositions which would require supervision by a trained person since there is often no one available for this monitoring function. Unsupervised probation as a disposition is perceived to be of little value. So the available range of dispositions is radically restricted in communities which do not have some local

resident with input into the circuit court. This becomes particularly important in communities which have infrequent court sittings as non-compliance with a court order may not be dealt with for several months.

With the movement to community based corrections and the Y.O.A.'s empowering of alternative measures, there is a push toward the development of community court committees. These committees are valuable as they can increase the range of dispositions available to the court by arranging and supervising victim-offender mediation, restitution, community service orders and non-judicially handled cases. They also make possible bail supervision, fine option and a variety of other programs. Community court committees also increase the likelihood that dispositions will be culturally appropriate and acceptable to the community. However, the establishment of such committees is very difficult in some communities, particularly those with the greatest need. Respondents from some of the Native communities indicated that there were problems of apathy, and disorganization which inhibited attempts to establish such committees. The dramatic improvement in the life of the Roseau River community with the establishment of its community committee, however, demonstrates that very real gains are possible despite the difficulties. One of the problems with the current delivery of services is that there is no key actor group in some of the communities long enough or regularly enough to facilitate the development of such a resource. Probation Services undertakes this initiate and has had success in the communities where there is a Probation office or frequent visits. The delivery system is a major impediment to the development of the resources which would strengthen the quality of a

circuit justice system. Alternative measures are difficult in communities where key actors are not continuously available.

It was often stated that the court party is an outside phenomenon, which periodically flies in, stays for a couple of hours, intervenes in the lives of individuals and then leaves again for weeks or months. The need for an enduring physical, social and human link with the outside justice system would give it a new kind of presence. The justice system would then have eyes in the community, a mind and heart to register the life of the community. It would be a voice in the community and it could help build and sustain a link with the faceless system that is not now well understood in some communities.

6.4 Variation in Community Type and the Court

The same court process is used to respond to criminal behaviour in all communities. While appropriate on the surface, the nature of life in Native communities questions the effectiveness of dealing with the problem of crime through the courts. It is not simply a question of cultural understanding on the part of key actors. Rather, it is one of fundamental differences in the communities served by the court circuit. In Chapter II we developed a typology which differentiates between two very different communities. Native communities have high needs and low levels of resources. Non-Native communities have higher levels of resources and lower levels of need. The social, economic and infra-structural inadequacies of Native communities are structurally generated and are largely beyond the control of the communities. Given the current circumstances, the viability of some of these communities is questionable.

Generally, non-Native communities have better utility infra-structures, economies, wage scales, recreational facilities and fewer very poor members. They have smaller families, less dependent children living at home, and fewer single parent families. While alcohol is a problem in these communities, alcohol-related problems are not as wide spread and debilitating as in many of the Native communities.

In contrast, Native communities have many serious problems. They have weak economies, poorly developed utility infra-structures, and large numbers of dependent children and single parents. As there are few opportunities for work large proportions of the population are on permanent welfare. Recreational resources are limited and alcohol and solvent usage is high. The poverty and despair of many people and the isolation of the community often lead to a search for an alcohol solution. But this offers temporary escape and only serves to compound their individual and social difficulties which further erode their self-esteem.

The differences in communities are reflected in the involvement of youth in crime. For example, Native juvenile offences almost always involve alcohol. Native youth become involved in criminal activity at an earlier age and they are involved in more serious crimes particularly assaults and the use of weapons than do non-Native youth. They also appear in court with more charges, are more likely to have a prior record, and are involved in more break and enter offences. There are more Native female youth charges than in non-Native communities or in Winnipeg. Due to the more serious nature of their offences, more Native youth were held in detention which means that many of them were removed from their communities.

The ability of the court process to respond to such basic problems of community disorganization is very limited. The court does not have the mandate or the resources that are needed to create a better economic and social climate which would reduce the use of alcohol and the involvement in crime. While it can help provide some resources to families in difficulty in many instances, all it can do is hold the young offenders accountable for their offences in the hope that they will learn from their brush with the law. In this context, the reliance on legal variables in decision-making takes on added significance. Since the court cannot begin to remedy the social and economic circumstances which help generate youthful crime, it may tend to ignore considering such factors and process cases by relying primarily on legal variables.

The legal system and a circuit court process will not be able to deal with the crime problem in many communities without some basic social and economic change. If the very structure of some communities is itself criminogenic, we may be able to punish or incarcerate the criminals that it breeds, but there will continue to be more young replacements unless there is basic social change. We believe this to be true in understanding urban crime as well, but the case is much clearer in the Native communities. The failure to provide decent life chances reaps a crop of despair, low self-esteem, alcoholism, anger, assault, and theft.

In conclusion, we believe that our research has shown that the circuit court process has done a remarkably good job with the meager resources that they have to work with and with respect to the scope of the problems that lie behind criminal involvement. We have also identified a series of issues that require further attention if improvement

of the system is to be made possible. In the next chapter we will look at the policy implications of our research.

CHAPTER 7

POLICY IMPLICATIONS

Several issues arise from this research which are worthy of further reflection and possible change in current policy. We will discuss each issue and offer some of the more practicable options which may be available to improve circuit court justice.

7.1 Compression of Cases

Current practice does not allow the Crown and defense counsel the necessary time to conduct many of the important elements of their role in the court process. As a result, it appears that all of the information concerning the offence and offender does not come to the attention of the court. In addition, the defense counsel often has too little time to corroborate evidence, to explain the process to the accused, and to discuss options and consequences of these options with the accused and/or parents.

It is recommended that the following options be explored to address these concerns:

1) pre-court clinics should be scheduled the day before court where possible and Legal Aid staff should be proactive rather than reactive in their dealings with the accused. Rather than waiting for the accused to come to their clinic out of shyness or a lack of familiarity with lawyers, Legal Aid staff should consider actively seeking out the juveniles who will be appearing in court the next day.

2) Para-legals should be trained in appropriate communities to undertake much of the data gathering and corroboration that would allow the court to operate on a more solid basis. This para-legal could also

undertake an educative role by helping the community to better understand the legal process. This would also serve the purpose of providing a continuing link with the larger legal system.

3) Consideration could be given to putting more than one Legal Aid lawyer on the circuit. This would spread the load and would allow the system to manage the logistical problems created by other options perhaps providing the greatest improvement in overall functioning for the additional costs. This certainly seems consistent with the intent of the Young Offenders Act with its emphasis on accountability, legal protection of rights and education of the offender to greater personal responsibility.

7.2 Detention

The only equipped long term detention facility in Manitoba is the Manitoba Youth Centre in Winnipeg. For a circuit court judge, the decision to place a youth in custody is perhaps more onerous than a similar decision made in Winnipeg. It is more costly, it removes the juvenile from family, friends and familiar surroundings. There is also the issue of culture shock for the Native youth who may find detention a strange and frightening experience. For all of these reasons, there is perhaps a reluctance to bring a juvenile into custody until the situation has deteriorated significantly.

There appear to be two options available with respect to detention:

1) build a detention centre in the North. This would be a costly undertaking and would still necessitate the removal of the juvenile from community and familiar surroundings although it would eliminate some of the problems presented by the current situation.

2) Another alternative could be to cultivate open custody placement resources in communities or to develop a group home type of capacity. This would reduce costs, keep the child in the community and yet increase supervision in a non-institutional setting. The increased use of the extended kinship network may also mean that a youth may be placed under the care of a responsible relative.

3) This option would be strengthened if a community committee, tribal or community council, or magistrate were empowered to make such arrangements as required without awaiting the return of the circuit court. Again, such an option seems compatible with the Y.O.A. provision of placing a youth in the care of a responsible person prior to disposition.

7.3 Comprehension of Juveniles

Juveniles do not always understand what is happening to them in court proceedings. The previously cited research of Smith-Gadacz clearly substantiates this claim. They do not always understand the concern, the legal interpretation of their involvement in offences, or the court process as it occurs. This low level of comprehension seriously undercuts the goal that they should learn from their experience with the justice system. Some steps could be taken to rectify this situation:

1) Sufficient staff resources should be made available to ensure that Legal Aid can carry out this educative role.

2) Empower a court committee, magistrate, para-legal, voluntary probation officer, or some other person to ensure that each juvenile,

family and community has access to information concerning the court and its operation.

3) A recurring issue is that of cultural differences between Native values and the values of the dominant society. For example, it is sometimes claimed that there are different attitudes to property whereby a break and enter is considered less serious by Natives. The similarity or dissimilarity of values should be studies in order to identify where differences exist. Consideration should also be given to the issue of whether cultural variation should receive differential judicial handling.

7.4 Factors Influencing Decision-Making

The primary use of legal variables in decision-making may be problematic in light of great variation in the social and economic circumstances of the communities where offences are committed. Thus, it is essential in future research to determine the extend to which extra-legal variables effect dispositions. Where it cannot have an impact because of the limited resources that the court can bring to bear, it would help clarify the limits to which the legal process can be an agent for social change or reconstruction. Perhaps this is the basic underlying policy issue: Can or should the court be concerned about social, economic or community change in its efforts to control and reduce crime, or is this type of change really a legislative responsibility?

7.5 Circuit Court and Information Quality

All of the key actor groups stressed their reliance on the Pre-disposition report for important background information on the youth, the

family and more generally the community's position with respect to this offender and offence. This information allows the court an opportunity for a better appreciation of the family and whatever problems it may be experiencing. It permits the court to assess the offender's ability to pay fines, his or her demeanor, and a host of other information which can lead to a more positive and constructive disposition. Unfortunately, in the more remote communities, no key actors have enough contact with the community to do this effectively.

A policy of recruiting and training voluntary probation officers, or if necessary paid probation workers, to ensure that each community has a vehicle for gathering, verifying and presenting this valuable background information for the court is recommended. Several concerns might be addressed by training a para-professional to undertake an active role in the fostering of several service thrusts in a community.

7.6 Community Committees and the Quality of Circuit Justice

Community committees can be a vehicle for greater self-reliance. In communities where they are working, they provide a greater range of dispositional alternatives. They have operated as a vehicle for community legal education. They have brought the victim more directly and more immediately back into the justice system through such programs as victim/offender mediation, informal restitution, etc. They hold out the promise that the community can further develop mechanisms to resolve disputes quickly and to all parties satisfaction without burdening the courts with these resolveable cases. Most key actor respondents support the development of such committees for these types of reasons. Community committees may increase the dispute settling network without

increasing the costs of operating the justice machinery. However, it is apparent in the study that not all communities are equally conducive or receptive to efforts to establish such committees. In non-Native communities such as Thompson and Dauphin, such committees operate with a good measure of success. The cohesiveness and general satisfaction of living in these types of communities make it easier to facilitate the development and sharpening of such interest. They have local power conflicts between factions, or are so disorganized that general community organization is a more appropriate level of introjection rather than facilitation.

Where a community facilitation role can be undertaken by Probation Services, Crown, police or other party should be encouraged. Where communities lack basic social organization and integration, facilitation will probably be inadequate. Evaluation research should be undertaken to determine the best approach to community organizing around the justice system. The experience of Roseau River Reserve in its successful development of a community committee and the subsequent reduction in crime and violence illustrates the positive gains which could develop out of such an initiative.

7.7 The Role of Magistrates--Immediacy in Dispute Settlement

It is important for dispute settlement that the judge is known in the community and is aware of community issues and dynamics. Respondents agreed that the communities which had the same judge attending on the circuit were most satisfied with judicial decisions. However, while attending the Northern Conference in Yellowknife, N.W.T. March, 1984, we became aware of another approach which was being tried in the Yukon Territory. Native magistrates were attempting to settle disputes in

ways that were agreeable to all parties involved. The magistrate was also able to get some disputants to take problems to a panel of Elders in order to resolve the problems within the community. This process has the advantage of allowing for an immediate effort to settle the dispute, for without this, the community would need to await the return of the circuit court. In addition, it placed the victim and offender centrally in the dispute settlement process and lead to such mediation and restitution outcomes which are now being used by the formal court process. It also restored the role of the Elder to the Native community and helped ensure that such settlements were culturally appropriate and based on good knowledge of the community and the offender's circumstances. Finally it helped to revitalize and maintain traditional values.

The role of the limited jurisdiction magistrate should be reviewed to assess its usefulness in some dispute settlements. A review should also examine the options available to increase the legitimacy of magistrate decisions by linking this process with the community court committee, the Elders, and Band Council/town council. In this way ostracism of magistrates would be reduced helping to insulate the magistrate from local controversies and keep the office apolitical. If the role of magistrate were strengthened, this person might also carry out some of the para-professional and educational initiatives which have also been suggested. The magistrate could also carry out a very valuable court communicator function.

7.8 Alcohol and Family Counselling Programs

It is clear that alcohol is a serious problem and one which contributes to criminal behaviour in many communities. It is not clear that alcohol abuse programs are the singular solution as they focus primarily on individual pathology rather than on alcohol usage as a symptom of structural problems. Current alcohol abuse programs should be reviewed as there were respondents in this study who considered them inadequate.

Most of the Native communities included in this study have a high potential need for social and human resources, yet they do not have direct and continuous access to them. The family counselling and child welfare support system needs strengthening and expansion to provide these vital human resources to families which are often faced with continuous stress. While counselling will not alleviate the stress, it may assist families in dealing more constructively with the circumstances.

7.9 Community Viability and Crime

There are great differences among communities and the patterns of juvenile crime often mirror these differences. While crimes are committed by individuals, they can be understood in part by analyzing the social and community context within which they are committed. The scope of this study and most studies is perhaps too narrow to directly address this level of analysis. Certainly any research which seeks to study crime by only concerning itself with the legal process and the offence/offender characteristics will cast the causal net too narrowly.

We suggest that consideration be given to developing policy for research that would broaden the nature of social research sufficiently

to include the necessary social, economic, community and human service information so that an attempt can be made to understand crime in a more holistic framework. Moreover, we suggest that this type of analysis be diagnostic with intentions to follow-up on such research with demonstration projects which seek to improve the quality of community life in order to reduce social disruption and criminal behaviour. Such efforts may of necessity be multi-disciplinary and they may require joint sponsorship of several departments and levels of government. Certainly undertaking such initiatives brings its own set of problems, but the differences between communities are so dramatic that we cannot afford to overlook them as we seek to reduce crime and provide for an orderly and just society.

In conclusion, there are several avenues for positive growth in the quality of circuit justice which have been identified. Further study would allow government to develop long term policy thrusts which would help narrow the gap between the quality of life in the hinterland and the metropolitan life.

CHAPTER 8

FUTURE RESEARCH DIRECTIONS

This study has provided a broad overview of the juvenile court process in rural and northern Manitoba. In the research, we have identified the need to develop greater community involvement in the justice system. If future research is to help move toward that end, a different kind of information gathering is needed and a different kind of relationship between researcher and community will need to be created. The circuit court delivery system will continue to exist for the foreseeable future and researchers face the challenge of working with small, and relatively isolated communities in an effort to enhance their ability to resolve disputes in a positive manner. The very style of research may be as crucial a consideration as the issues and problems that it seeks to address. This final chapter begins with a brief discussion of the kind of community development research that may be the most appropriate approach in subsequent projects.

8.1 Community Development Research

Hinterland communities are small and greater self-reliance can be facilitated in the area of criminal justice practice. To this end, research conducted in partnership with the communities can help to identify their needs and assist them in the task of developing sound programs and structures to meet those needs. If basic community development research is properly undertaken, it can become a self-sustaining part of the culture of the community. This ethnographic type of research thrust requires that the research be conducted in the community

in order to generate the necessary rapport. The researcher needs to have an intimate knowledge of the community, its social life, family life, cultural life and political life. But it would be more than a typical ethnography in the sense that the researcher and the research are intended to be a stimulus and a change agent. Research of this type would deliver the following types of products: 1) a community profile at the outset of the study, 2) an analysis and diagnosis of the problems in the community that compromise community viability, 3) an intervention strategy for positive social change, and 4) a description and analysis of the outcome of the research intervention, both short-term and long-term. This type of research design arises quite logically out of the research done to date.

8.2 Targeting Communities

General surveys of communities have their place in research and this study uncovers about as much as can be learned from multi-site studies. More detailed study of a large number of communities would give greater descriptive precision, but would be unable to further direct policy and planning. Instead a small number of communities should be targeted for community development research. These communities should be selected because of the different degrees of problems that they are experiencing. The goal would be to learn what type of strategies are necessary to develop citizen participation in both stable communities and in communities with serious economic and social problems. Research would be studying a range of communities to ascertain which intervention skills would be necessary to improve the quality of community response to crime. This knowledge would then assist in the

intervention in yet other communities of a similar type. This approach would gather knowledge about each particular community as well as knowledge about how to foster community development. Such data would be invaluable both to the social sciences and to government planners.

8.3 Researcher/Community Partnership

In each community a researcher would first work to become familiar with the community and with the way in which the criminal justice system was administered. This would include such activities as observing court proceedings plus surveys or interviews to assess the level of knowledge and understanding of the court process as well as the issues surrounding crime. It would include discussing the court procedure with juveniles and parents who are now dealing with the court in order to determine their understanding of the system. The researcher would attempt to get to know as much about these juveniles, their families and their relationship with the community so as to be able to independently assess the quality and completeness of Pre-disposition Reports and the general level of information available to the courts when they are processing cases. This would identify any problems with quality of information. The research would also to assess the availability and quality of counselling and social services available.

An assessment of the general mood of the community would be necessary. The researcher would need to assess the level of commitment of youth to school, work and a future in order to develop a composite picture of the community in as many facets as possible. The researcher would also assess the possibility of developing such things as community court committees, a local magistrate program with expanded authority,

and the use of panels or Elders to help in dispute settlement. All of this preliminary work would be designed to capture the system as it now exists.

This profile of the community would then be presented to the community in order to help it understand itself with reference to the area of justice practice. It is an assessment of the problems and possibilities for change in the community as it now exists. This allows the community to correct misperceptions of the researcher, and it also provides the stimulus for a community self-analysis. It allows the community to identify problems that they have not been able to recognize themselves. It gives the community ideas of where change may be possible and desirable. It helps to empower the community to see and understand itself. It should also lead the community to ask the researcher what could be done to improve upon current practice.

The role of the researcher is then to help this community help itself. This ensures that it is a grassroots reconstruction and that community members develop the requisite knowledge, skill and vision. The social, cultural and political realities of the community must be sufficiently addressed to ensure that possible problems are accounted for and controlled. The researcher should play a background role by offering suggestions and identifying problems which are not being addressed by the community. If the community is unwilling to take a lead role in this intervention planning and implementation, it may be necessary to terminate this research as without partnership of both researcher and community such an intervention is unlikely to be self-sustaining.

The researcher would document the effectiveness of these planned interventions, in a pre-test/post-test type of design. This ensures that there is a maximum return in information both about the community and various research strategies. A longitudinal study would help to identify the type of maintenance and follow-up interventions which may be necessary to help sustain these improvements. But overall, this approach would generate a whole new range of knowledge and information for policy makers which is not used frequently enough in the social sciences. Social science research has been primarily concerned in the development of causal maps of current social relations. However, there is a growing awareness of the need for an interventionist research strategy in the social sciences.

A community development research strategy in hinterland communities would facilitate the further exploration of the many policy issues which stem from this research and would also compensate for some of the gaps in the data which have hindered this study. There is no obvious reason why this type of research strategy could not also be used in larger metropolitan areas as well as for specific community groups. It is clear that there are criminal justice issues which require attention in the urban centres. The largest proportion of prison populations are Native, and the largest proportion of the Native prison populations are urban Natives. Many immigrant groups also have difficulty with their children as these youth are confronted with two cultural frames of reference. There are other self-identified communities in urban communities and they should not be neglected in our efforts to define more workable links with the criminal justice system and to create greater community self-reliance.

This type of community development research holds out the greatest hope for a return on research funds and the greatest potential for real improvement in the justice field. Such an approach is in step with current government initiatives which are attempting to foster a rebirth in community self-reliance, and community involvement in the criminal justice system. It certainly is consistent with the movement to Indian self-government and it could help contribute to such a historical movement. While the fiscal pressures of deficit spending are a primary impetus behind this desire for greater community participation, this kind of research will not be without costs. However, it is vital. Many communities have lost their ability to be self-reliant. In the years of big government and professional delivery of service, citizens have learned to be administered to by social programs. They do not fully recognize the value and importance of participation in community life. If governments cut services to balance budgets without preparing for an orderly transfer of responsibility of some services back to the community, then there may be a serious deterioration in the quality of Canadian life. Canadians can benefit greatly from such a reorientation. Self-reliance can be reintroduced as a dominant feature of Canadian culture through community organization skills. The Canadian government can take the lead by sponsoring the first efforts at this type of research in order to convince itself and the other levels of government that this approach is viable and fruitful. At that point it would become possible to seek and spread the burden of financial costs to the provincial and municipal governments responsible. It should be possible to interest community groups, the corporate sector and foundations to contribute to this kind of research because it holds out some legitimate

promise for the birth of a genuine Canadian culture and experience. Without it, order in the 21st century may be based on less benign forms of control.

8.4 Other Future Research Suggestions

There are several other research issues which arise out of this study. While they have been mentioned in the previous two chapters, a brief summary is in order. Some of these issues could be tackled in less involved research formats than the model we suggested in this chapter.

The first issue has to do with the quality of data that are necessary to undertake such research. More complete information is needed concerning the juvenile's family and social circumstances. Better information is necessary on the race of the offender. The criminal career patterns of Native and non-Native youth should be fully explored. This information is essential for the analysis of data at the individual unit of analysis. The data from several communities in this research were rendered useless in this regard because cases being processed in several court sites included both Native and non-Native youth. It is also necessary to have more complete information concerning the place where the offence was committed and the community where the offender is resident. Hinterland dockets have large catchment areas, and such information is essential in order to accurately describe and understand the etiology of the hinterland crime. More detailed and complete case tracking during court observation is also necessary as court observations for this study were were much too superficial to be able to draw conclusions with any degree of confidence. Longitudinal studies of case processing are necessary to see if important differences exist. More

detailed information should be gathered on communities in order to more accurately assess needs for services and availability of services. Interview data should be gathered in communities during longer stays in these sites. There is no way to assess the validity and completeness of these data due to the very short stays in each community. Any future research methodology will need to get closer to the community and the court process if it hopes to increase knowledge and understanding.

Research is needed to determine what can be done to reduce the effects of compression of cases for the Crown and defense counsel functions in circuit court justice. This research should assess the relative gain of information quality and completeness by using various strategies.

Alternatives to detention in MYC should be studied. Open custody, group home facilities, use of extended kinship should all be examined to see if juveniles can be controlled within the community. Long-term differences between these juveniles and those held in MYC should be investigated in terms of reinvolvement in crime.

Research should be undertaken to determine the extent to which juveniles do not understand the court proceedings. Various strategies should be undertaken to see what might improve comprehension. The function of the court may otherwise be compromised. If juveniles feel unfairly treated, this sense of injustice may weaken their bond to conventional society.

More detailed extra-legal variable data needs to be collected and an assessment needs to be made of the extent to which this important information shapes the sentencing process.

Research on the quality and completeness of Pre-disposition Reports is necessary in order to assess how well the hinterland circuit court understands the communities that it serves. Research is also necessary to determine the desirability of establishing V.P.O.s, P.W.s and other para-professional staff in these communities.

Research needs to be conducted on the ways in which community participation can be created in terms of community court committees. Such committees significantly improve the range of dispositions available to the court both by arranging them and supervising them.

The role of the magistrate needs to be reviewed to determine the extent to which it might be profitably expanded to provide for immediate dispute settlement and mediation of non-contentious matters. This would not usurp the vital role that the circuit court plays in serious matters, but it would provide for community self-reliance and speed in justice, both desirable goals.

More research is necessary into the effects of the quality of community life on crime. Many of the communities studied have significant problems with the quality of life that is available to the people who reside there. Certainly a study which, for example, selected a number of Native communities across the country which were similar on characteristics other than viability/non-viability of the economic base of the community would provide some clues as to what would happen if better economic bases were created in some of the poorer, more isolated Native communities. There are Native communities in Quebec, Ontario, and Alberta which have an economic base. What are the similarities and differences of these communities and other Native communities which have no economic base?

There is a need for the study of urban Native populations and their participation in crime. This study was unable to undertaken urban/rural comparisons of Native populations because so little is known about the urban scene.

Research is necessary to determine the extent to which the success of the Dakota Ojibway Tribal Council in communities such as Roseau River can also help to improve a community's economic situation. The success of the Roseau River Band Council demonstrates that there is a certain range of potential available in all communities for improvement.

The large number of young Native women in the court suggests that more research is required with respect to women in conflict with the law. It is difficult to tell if Native women are being brought into more contact with state agencies than non-Native women, since it is unknown how many young girls are being processed through the child welfare system in Winnipeg and non-Native communities. This question cannot be answered without more research being undertaken at the individual unit of analysis. In addition, the interface between the child welfare system and Youth court is not clearly defined. Research on alcohol abuse and juveniles to date answers too few questions. Research is needed to assess the long term effects of working with alcohol children from very early ages. The actual strength and quality of alcohol counselling services offered in northern communities should be assessed. Further research is required to determine the extent to which community support systems can aid those who wish to stop using alcohol.

Research needs to be undertaken to determine the extent to which informal control structures can be strengthened and utilized. For Native communities there is much that could be done to encourage the

reemergence of customary law and peacemaker courts. There is much that mainstream society could learn about strengthening community and neighbourhoods so that they too could handle disputes and settle them at an informal level. Much more work is required to determine what is possible in this area.

There is no scarcity of important research topics in this area. If a more holistic approach is not undertaken in a small number of communities as demonstration projects, then some work will be needed to priorize these many research areas in order of importance. Certainly there is much more that can be done to improve upon the quality of justice as delivered by the current circuit court.